

No. 11841

United States
Circuit Court of Appeals
For the Ninth Circuit

see vol. 25/5

ED DE BON,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Northern District of California,
Southern Division

FILED

MAY 21 1946

PAUL F. O'BRIEN
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

MR. CHAUNCEY TRAMUTOLO,

155 Montgomery Street,
San Francisco, California.

Attorney for Defendant and Appellant.

MR. FRANK J. HENNESSY,

United States Attorney,
Northern District of California.

Post Office Building,
San Francisco, California.

Attorney for Plaintiff and Appellee.

In the District Court of the United States for the
Northern District of California, Southern Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

ED DE BON, OSCAR CSAKI and
JOHN STEPHEN HILDEBRAND,
Defendants.

INDICTMENT

Viol. Title 18 U. S. C. A. 88 and Title 18 U. S. C. A.
80, Conspiracy and Fraud against Government
Illegal purchase of automobiles from W. S. A.

First Count
(Title 18 U. S. C. A. 88)

The Grand Jury charges:

(1) That at all times herein mentioned, the War Assets Corporation, now the War Assets Administration, was and is a Department and Agency of the United States of America having authority to dispose of certain surplus war property, including trucks, automobiles and other automotive vehicles, and various other property belonging to the United States, the said Department and Agency being hereinafter sometimes referred to as "War Assets Corporation" and sometimes as "War Assets Administration."

(2) That at all times herein mentioned, defendant, Ed De Bon, was the owner and proprietor of the De Bon Motor Company, with its principal place of business in the City of Eureka, County of Humboldt, State of California. [2*]

(3) That at all times herein mentioned, defendant, Oscar Csaki, was a resident of the City and County of San Francisco, State of California.

(4) That at all times herein mentioned, defendant, John Stephen Hildebrand, was a resident of the City and County of San Francisco, State of California.

(5) That beginning in the month of March, 1946, and continuously thereafter until the date of the filing of this indictment, in the City and County of San Francisco, State of California, within the Southern Division of the Northern District of California, and within the jurisdiction of this Court, the said Ed De Bon, Oscar Csaki, and John Stephen Hildebrand (hereinafter called "said defendants") did unlawfully, wilfully and knowingly conspire, combine, confederate and agree together, to commit offenses against the United States of America, to wit, to defraud the United States in violation of Title 18 U. S. C. A. Section 80.

(6) That the object of said conspiracy was knowingly and wilfully to make and cause to be made, present and cause to be presented, false and fraudulent applications by Veterans of World War

* Page numbering appearing at foot of page of original certified Transcript of Record

It for the purchase of surplus war materials from the War Assets Administration, succeeding the War Assets Corporation, the said defendants knowing then and there that the said applications were false, fraudulent and misleading, and knowing that said applications were in a matter within the jurisdiction of the said War Assets Administration. The intent and design of the said defendants and the said co-conspirators was to obtain for the use and benefit of said defendants war surplus property through [3] priority certificates available only to veterans of World War II for the purpose of securing such surplus property, to wit, various kinds of trucks, automobiles and other automotive vehicles; and, notwithstanding a specific agreement with the War Assets Administration that any such War surplus property so secured was not being purchased for the purpose of resale, did, in fact, at all times, intend that title to the property should be secured for the use of the defendant, Ed De Bon, who was then and there not legally entitled to purchase the said war surplus property.

(7) In furtherance of said conspiracy, and during the existence thereof, the following overt acts were committed:

(a) On or about March 27, 1946, in the City and County of San Francisco, State of California, at the Office of the War Assets Administration, defendants, Oscar Csaki and John Stephen Hildebrand, jointly prepared a certain document known as "Veteran's Application for Surplus Property," intending the same for filing with the War Assets Administration.

(b) On or about March 27, 1946, in the City and County of San Francisco, State of California, the defendant, John Stephen Hildebrand, made certain entries on a document know as "Veteran's Application for Surplus Property."

(c) On or about March 27, 1946, in the City and County of San Francisco, State of California, the defendant, Oscar Csaki, presented a document known as "Veteran's Application for Surplus Property" to the War Assets Administration, knowing that certain statements therein were false and fraudulent. [4]

(d) On or about July 8, 1946, in the City and County of San Francisco, State of California, the defendant, Ed De Bon, solicited the defendant, John Stephen Hildebrand, to fraudulently procure and exercise a veteran's priority for the purchase of a certain Chevrolet truck being offered for sale by the War Assets Administration.

(e) On or about July 8, 1946, in the City and County of San Francisco, State of California, the defendant, John Stephen Hildebrand, executed a mail order request for the purchase of surplus property from the War Assets Administration in the name of Oscar Csaki.

(f) On or about July 9, 1946, in the City and County of San Francisco, State of California, the defendant, Ed De Bon, paid to the War Assets Administration the sum of \$1,125.96, more or less, for a Chevrolet truck sold to defendant Oscar Csaki on the same date by the War Assets Administration.

(g) On or about July 9, 1946, in the City and County of San Francisco, State of California, the defendant, Oscar Csaki, made a certification that he was purchasing a certain Chevrolet truck from the War Assets Administration, in accordance with War Assets Administration regulations.

(h) On or about July 9, 1946, in the City and County of San Francisco, State of California, the defendant, Oscar Csaki transferred the title to the Chevrolet truck, hereinbefore mentioned, to Ed De Bon. [5]

(i) On or about July 8, 1946, in the City and County of San Francisco, State of California, the defendant, Ed De Bon, solicited the defendant, John Stephen Hildebrand, to exercise certain Veteran's priorities for the purchase of certain White trucks which were to be offered for sale by the War Assets Administration on July 12, 1946.

(j) On or about July 8, 1946, in the City and County of San Francisco, State of California, the defendant, John Stephen Hildebrand, executed a mail order request for the purchase of surplus property from the War Assets Administration in the name of defendant Oscar Csaki.

(k) On or about July 24, 1946, in the City and County of San Francisco, State of California, the defendant, Ed De Bon, paid to the War Assets Administration the sum of \$10,887.00, in full payment of three White van trucks sold to the defendant Oscar Csaki on the same date by the War Assets Administration.

(l) On or about July 9, 1946, in the City and County of San Francisco, State of California, the defendant Ed De Bon paid to defendant John Stephen Hildebrand the sum of \$50.00 for procuring and exercising a Veteran's priority in purchasing a Chevrolet truck from the War Assets Administration.

(m) On or about July 9, 1946, in the City and County of San Francisco, State of California, the defendant, John Stephen Hildebrand, paid the defendant, Oscar Csaki, a portion of the \$50.00 he had received from the defendant, Ed De Bon. [6]

(n) On or about July 24, 1946, at the City and County of San Francisco, State of California, the defendant, Ed De Bon, paid to defendant, John Stephen Hildebrand, the sum of \$400.00 for procuring and exercising Veteran's priorities in purchasing three White van trucks sold to the defendant, Oscar Csaki, on the same date by the War Assets Administration.

(o) On or about July 24, 1946, in the City and County of San Francisco, State of California, the defendant, John Stephen Hildebrand, paid to the defendant, Oscar Csaki \$120.00 more or less, of the \$400.00 he had received from defendant, Ed De Bon.

(p) On or about July 24, 1946, in the City and County of San Francisco, State of California, defendant, Oscar Csaki, (pursuant to prior agreement with the defendant, Ed De Bon) transferred title to said three White van trucks, hereinbefore mentioned, to defendant Ed De Bon.

Second Count
(Title 18 U. S. C. A. 80)

The Grand Jury further charges:

That on or about July 8, 1946, the said defendants in the City and County of San Francisco, State of California, and within the jurisdiction of this Court, did knowingly and wilfully make and cause to be made, false, fraudulent and misleading statements and misrepresentations, and did conceal and cover up by scheme and device a material fact in a matter within the jurisdiction of a Department and Agency of the United States, to wit, the War Assets Administration, in that the said defendants did cause to be executed a mail order request for the purchase of surplus property, to wit, the purchase of a Chevrolet truck purported, to be [7] for the use and benefit of a veteran of World War II, one Oscar Csaki, when in truth and fact it was the intention of the defendants to purchase the Chevrolet truck for the use and benefit of the defendant, Ed De Bon, who was then and there not legally entitled to purchase said property.

Count Three
(Title 18 U. S. C. A. 80)

The Grand Jury further charges:

That on or about the 8th day of July, 1946, the said defendants, in the City and County of San Francisco, State of California, and within the jurisdiction of this Court, did knowingly and wilfully make and cause to be made false, fraudulent and misleading

statements and representations, and did conceal and cover up by scheme and device a material fact in a matter within the jurisdiction of a Department and Agency of the United States, to wit, the War Assets Administration, in that the said defendants did cause to be executed a mail order request for the purchase of surplus property, to wit, the purchase of one or more White van trucks, purported to be for the use and benefit of a veteran of World War II, one Oscar Csaki, when in truth and in fact it was the intention of the defendants to purchase said one or more White van trucks for the use and benefit of the defendant, Ed De Bon, who was not then and there legally entitled to purchase said property.

A true Bill

PERRY T. CUMBERSON,
Foreman.

/s/ FRANK J. HENNESSY,
United States Attorney.

Approved as to Form,
R. C. McM

Bail: \$500, Csaki; \$1,000, Hildebrand; \$2,500,
De Bon.

[Endorsed]: Filed June 11, 1947.

District Court of the United States, Northern District of California, Southern Division

At a Stated Term of the District Court of the United States for the Northern District of California, Southern Division, held at the Court Room thereof, in the City and County of San Francisco, on Thursday, the 19th day of June, in the year of Our Lord one thousand nine hundred and forty-seven.

Present: The Honorable George B. Harris,
District Judge.

[Title of Cause.]

Minute Order

ARRAIGNMENT

This case came on regularly this day for arraignment of the defendants Ed De Bon, Oscar Csaki and John Stephen Hildebrand. Defendant John Stephen Hildebrand was not present. Defendants Ed De Bon and Oscar Csaki were present in proper person and with their respective counsel: Herbert Pothier, Esq., for Ed De Bon; and Chauncey Tramutolo, Esq., for Oscar Csaki. E. H. Henes, Esq., Assistant United States Attorney, was present on behalf of the United States.

On motion of Mr. Henes, defendants Ed De Bon and Oscar Csaki were called for arraignment. Said defendants were informed of the return of the Indictment by the United States Grand Jury, and asked if they were the persons, among others, named therein and upon their answer that they were, and that their true names were as charged, thereupon counsel for

defendants waived reading in full of Indictment, and the substance of the charge was stated to defendants.

Mr. Tramutolo advised that defendant Oscar Csaki had heretofore [9] received copy of Indictment. Copy of Indictment was then handed to defendant Ed De Bon. Both defendants stated that they understood the charge against them.

At the request of counsel for both parties, it is ordered that this case be continued to July 11, 1947, for entry of pleas of defendants Ed De Bon and Oscar Csaki.

District Court of the United States, Northern
District of California, Southern Division

At a Stated Term of the District Court of the United States for the Northern District of California, Southern Division, held at the Court Room thereof, in the City and County of San Francisco, on Friday, the 11th day of July, in the year of Our Lord one thousand nine hundred and forty-seven.

Present: The Honorable George B. Harris,
District Judge.

[Title of Cause.]

Minute Order

PLEA OF "NOT GUILTY" ENTERED BY DEFENDANT ED DE BON; ETC.

This case came on regularly this day for entry of pleas of the defendants who were present in proper person and with their respective counsel: Herbert Pothier, Esq., for Oscar Csaki; Chauncey Tramutolo,

Esq., for Ed De Bon; and Jos. C. Haughy, Esq., for John Stephen Hildebrand. Edgar R. Bonsall, Esq., Assistant United States Attorney, was present on behalf of the United States.

The defendants were called to plead. Defendant Ed De Bon pleaded "Not Guilty" to the Indictment filed herein and requested trial by jury.

* * * * *

After hearing the attorneys, it is ordered that this case be continued to July 29, 1947, for jury trial as to defendant Ed De Bon. [11]

* * * * *

District Court of the United States, Northern
District of California, Southern Division

At a Stated Term of the District Court of the United States for the Northern District of California, Southern Division, held at the Court Room thereof, in the City and County of San Francisco, on Wednesday, the 30th day of July, in the year of Our Lord one thousand nine hundred and forty-seven.

Present: The Honorable George B. Harris,
District Judge.

[Title of Cause.]

Minute Order

MINUTES OF TRIAL; MOTION FOR AC-
QUITTAL DENIED; MOTION FOR DI-
RECTED VERDICT DENIED

The parties hereto and the jury impaneled herein being present as heretofore, the further trial of this case was this day resumed. John Stephen Hildebrand resumed his testimony on behalf of the United

States. Oscar Csaki was sworn and testified on behalf of the United States. Mr. Bonsall introduced in evidence and filed U. S. Exhibits Nos. 1, 2, 3, 4, 6, 7, 8, 9, and 10 heretofore marked for identification. Mr. Bonsall introduced in evidence and filed U. S. Exhibits Nos. 16, 17, 18, and 19. Thereupon the United States rested.

In the absence of the jury, Mr. Tramutolo made a motion for judgment of acquittal on behalf of defendant Ed De Bon as to all Counts of the Indictment, which motion, after hearing Mr. Tramutolo and Mr. Bonsall, was ordered denied. Upon the [12] return of the jury into Court, Ed De Bon, Patrick John Kelly and Dr. James B. Brumback were sworn and testified on behalf of the defendant. Defendant then rested. Wm. B. Dillon was sworn and testified, in rebuttal, on behalf of the United States. Thereupon the evidence was closed.

In the absence of the jury, Mr. Tramutolo made a motion for a directed verdict of not guilty, which motion was ordered denied.

The hour of adjournment having arrived, the Court, after admonishing the jury, Ordered that the further trial of this case be continued to July 31, 1947, at 10 a. m.

District Court of the United States, Northern
District of California, Southern Division

At a Stated Term of the District Court of the United States for the Northern District of California, Southern Division, held at the Court Room thereof, in the City and County of San Francisco, on Thursday, the 31st day of July, in the year of our Lord one thousand nine hundred and forty-seven.

Present: The Honorable George B. Harris,
District Judge.

[Title of Cause.]

Minute Order

MINUTES OF TRIAL, VERDICT, MOTION IN
ARREST OF JUDGMENT DENIED

The parties hereto and the jury impaneled herein being present as heretofore, the further trial of this case was this day resumed. After arguments by the attorneys and the instructions of the Court to the jury, the jury retired at 2:25 p.m. to deliberate upon its verdict. At 4:10 p.m. the jury returned into Court and received further instructions from the Court. At 4:32 p.m. the jury again retired to further deliberate upon its verdict.

At 6:00 p.m. the Court ordered that the United States Marshal and Crier take the jury to dinner. At 7:40 p.m. the jury was returned to the jury room and continued its deliberation. At 9:13 p.m. the jury returned into Court and upon being asked if it had agreed upon a verdict, replied in the affirmative and

returned the following verdict which was ordered filed and recorded, viz: [14]

“We, the Jury, find as to the defendant at the bar as follows: Guilty as to the First Count of the Indictment, Not Guilty as to the Second Count of the Indictment, Guilty as to the Third Count of the Indictment.

“MARSHALL A. BALDWIN,

“Foreman.”

The jurors upon being asked if said verdict as recorded was their verdict, each juror replied that it was. Ordered that the jury be discharged from further consideration of this case and from attendance upon the Court until notified.

Mr. Tramutolo made a motion in arrest of judgment, which motion was ordered denied.

Mr. Tramutolo requested that imposition of sentence herein be stayed until September 2, 1947, which motion was ordered granted.

On motion of Mr. Tramutolo and with consent of Mr. Bonsall, it is Ordered that the defendant be and he is hereby allowed to remain at liberty on the same bond as heretofore posted pending imposition of sentence. [15]

District Court of the United States, Northern District of California, Southern Division, First Division

No. 30881-H

THE UNITED STATES OF AMERICA

vs.

ED DE BON

VERDICT

We, the Jury, find as to the defendant at the bar, as follows:

Guilty as to the first count of the indictment.

Not Guilty as to the second count of the indictment.

Guilty as to the third count of the indictment.

MARSHALL A. BALDWIN,
Foreman.

[Endorsed]: Filed July 31, 1947. [16]

[Title of District Court and Cause.]

MOTION IN ARREST OF JUDGMENT

The defendant, Ed De Bon, moves the Court to arrest the judgment for the following reason:

That the indictment does not state facts sufficient to constitute an offense against the United States.

/s/ CHAUNCEY TRAMUTOLO,
Attorney for Defendant.

Service of copy of above motion is hereby admitted this 5th day of August, 1947.

FRANK J. HENNESSY,
Per T.S.,
U. S. District Attorney for
Plaintiff.

[Endorsed]: Filed Aug. 5, 1947. [17]

[Title of District Court and Cause.]

MOTION FOR NEW TRIAL

The defendant, Ed De Bon, moves the Court to grant him a new trial for the following reasons:

1. The Court erred in denying defendant's motion for acquittal made at the conclusion of the evidence offered the Government.

2. The Court erred in denying defendant's motion for acquittal made at the conclusion of all of the evidence.

3. The verdict is contrary to the weight of evidence.

4. The verdict is not supported by substantial evidence.

5. The Court erred in admitting the testimony of the witness, William Dillon.

6. The Court erred in sustaining objections to questions addressed to the defendant, Ed De Bon.

7. The Court erred in charging the jury and in refusing to charge the jury as requested.

8. The defendant was substantially prejudiced and deprived of a fair trial by reason of the following circumstances:

The attorney for the Government stated in his argument to the jury that the defendant was guilty not only of one conspiracy, but that he was guilty of many conspiracies to which attorney for the de-

fendant objected and also made a motion to strike, which though granted had a prejudicial effect upon defendant, Ed De Bon.

/s/ CHAUNCEY TRAMUTOLO,
Attorney for Defendant.

Service of copy of above motion is hereby admitted this 5th day of August, 1947.

FRANK J. HENNESSY,
Per T.S.,

United States District Attorney, Attorney for
Plaintiff.

[Endorsed]: Filed Aug. 5, 1947. [18]

District Court of the United States, Northern
District of California, Southern Division

At a Stated Term of the District Court of the United States for the Northern District of California, Southern Division, held at the Court Room thereof, in the City and County of San Francisco, on Friday, the 12th day of September, in the year of our Lord one thousand nine hundred and forty-seven.

Present: The Honorable George B. Harris,
District Judge.

[Title of Cause.]

Minute Order

MOTION IN ARREST OF JUDGMENT AND
MOTION FOR NEW TRIAL ORDERED
DENIED

In this case the motion of defendant Ed De Bon in arrest of judgment and motion for new trial hav-

ing been heretofore submitted to the Court, and due consideration having been thereon had, It Is Ordered that each of the said motions be, and the same is hereby, denied. [19]

District Court of the United States for the Northern
District of California, Southern Division

No. 30881-H

UNITED STATES OF AMERICA

vs.

ED DE BON

JUDGMENT AND COMMITMENT

On this 26th day of September, 1947, came the attorney for the government and the defendant appeared in person and with counsel.

It Is Adjudged that the defendant has been convicted upon his plea of not guilty, and a verdict of Guilty of the offense of Viol. of Title 18 U.S.C.A. Sec. 88 (Ct. 1), deft. did, in San Francisco, Calif., beginning in March, 1946, and thereafter until June 11, 1947, conspire to commit offenses against the United States of America, and Viol. of Title 18 USCA, Sec. 80 (Ct. 2), deft. did, on or about July 6, 1946, in San Francisco, Calif., make and cause to be made fraudulent statements in order to purchase surplus property, as charged Cts. 1 & 3 of the Indictment, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to

the contrary being shown or appearing to the Court;

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Six (6) Months on Count One of the Indictment.

It Is Further Ordered that the sentence of imprisonment imposed on said defendant be suspended and that he be placed on Probation for a period of Two (2) Years, and that he pay a fine to the United States of America in the sum of Two Thousand Five Hundred Dollars (\$2500.00) on Count One of the Indictment, and that he pay a fine to the United States of America in the sum of Two Thousand Five Hundred Dollars (\$2500.00) on Count Three of the Indictment.

It Is Further Ordered that the sentences imposed on said defendant on Counts One & Three of the Indictment run Consecutively, making a total fine in the sum of Five Thousand Dollars (\$5,000.00).

It Is Further Ordered that said defendant report to said Probation Officer as often and in such manner as directed and further comply with all terms and regulations prescribed by said Probation Officer, during the probationary period.

Defendant found Not Guilty as to Count Two of the Indictment.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and

that the copy serve as the commitment of the defendant.

GEORGE B. HARRIS,
United States District Judge.

Examined by:

EDGAR R. BONSTALL,
Asst. U. S. Attorney.

The Court recommends commitment to: a County Jail.

Filed and entered this 26th day of September, 1947.

C. W. CALBREATH,
Clerk.

By EDWARD A. MITCHELL,
Deputy Clerk. [20]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Name and address of appellant: Ed De Bon, 2000 Broadway, Eureka, California.

Name and address of appellant's attorney: Chauncey Tramutolo, Alexander Building, 155 Montgomery Street, San Francisco, California.

Offense: Indictment contained three counts, the first charging appellant conspired with others to make a false application to purchase surplus war materials from the War Assets Administration, in violation of Title 18 USCA, sec. 88; the second charging he jointly with others misrepresented a material fact to the War Assets Administration in

executing a mail order request for the purchase of a Chevrolet truck, in violation of Title 18 USCA, sec. 80; and the third charging he jointly with others misrepresented a material fact to the War Assets Administration in executing a mail order request for the purchase of one or more White van trucks, in violation of Title 18 USCA, Sec. 80;

Concise statement of judgment or order, giving date, and any sentence. On July 31, 1947, the jury returned its verdict finding appellant guilty on Count One and Count Three of the indictment; on September 12, 1947, the court made and entered its orders denying appellant's motions in arrest of judgment and for a new trial; and on September 26, 1947, the court made and entered its judgment of sentence, sentencing appellant to six months in the County Jail on Count One but suspending sentence and placing him on probation for two years and fining him \$2,500 on said Count One and fining him \$2,500 on said Count Three, and ordering said judgment of sentence and fines to run consecutively.

Name of institution where now confined, if not on bail: [21] None. Appellant was admitted to and is on bail and the execution of judgment of sentence and fines on September 26, 1947, was stayed to October 6, 1947, by order of court.

I, Ed De Bon, the above-named appellant, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the above-stated judgment of conviction, sentence and fines, order denying my motion in arrest of judgment and order

denying my motion for a new trial and from the whole thereof on questions of law and of fact.

Dated: October 2, 1947.

/s/ CHAUNCEY TRAMUTOLO,
Attorney for Appellant.

Received Copy Oct. 2, 1947.

EDGAR R. BONSTALL,
Assist. U. S. Atty.

[Endorsed]: Filed Oct. 2, 1947. [22]

[Title of District Court and Cause.]

DESIGNATION OF CONTENTS OF RECORD
ON APPEAL

(Under Rule 29 R. Crim. P. and Rule 75 R Civ. P.)

For the contents of the record on appeal herein the appellant hereby designates for inclusion the complete record and all the proceedings and evidence in the action together with all the instructions to the jury proposed by the parties to be given and those actually given to the jury.

Dated: October 3, 1947.

/s/ CHAUNCEY TRAMUTOLO,
Attorney for Appellant.

Receipt of a copy of the above Designation is hereby admitted this 3rd day of October, 1947.

FRANK J. HENNESSY,
U. S. Attorney.

By EDGAR R. BONSTALL,
Assistant U. S. Attorney. Attorneys for Plaintiff
(Appellee).

[Endorsed]: Filed Oct. 3, 1947. [23]

[Title of District Court and Cause.]

STIPULATION AND ORDER EXTENDING
TIME FOR FILING RECORD ON APPEAL
AND DOCKETING CAUSE IN CIRCUIT
COURT

(Rule 39(c), R. Crim. Pro.)

It is stipulated between the parties hereto that the time within which the defendant (appellant) Ed De Bon shall file his record and docket said cause on appeal in the United States Circuit Court of Appeals be extended to and including the 29th day of December, 1947.

Dated: November 10, 1947.

FRANK J. HENNESSY,

U. S. Attorney.

By EDGAR R. BONSALE,

Assistant U. S. Attorney, Attorneys for Plaintiff
(Appellee).

CHAUNCEY TRAMUTOLO &

W. COLLINS,

/s/ CHAUNCEY TRAMUTOLO,

Attorney for Defendant

(Appellant).

So Ordered for Cause Shown, November 10, 1947.

GEORGE B. HARRIS,

United States District Judge.

[Endorsed]: Filed Nov. 10, 1947. [24]

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 30881-H
(USDC No. 30881-H)

ED DE BON,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STIPULATION AND ORDER EXTENDING
TIME FOR FILING RECORD ON APPEAL
AND DOCKETING CAUSE IN CIRCUIT
COURT

It is stipulated between the parties hereto that the time within which the appellant (defendant below), Ed De Bon, shall file his record and docket said cause on appeal in this Court be extended to and including the 28th day of January, 1948.

Dated: December 26, 1947.

/s/ FRANK J. HENNESSY,
U. S. Attorney.

By,
Assistant U. S. Attorney,
Attorneys for Appellee.
/s/ CHAUNCEY TRAMUTOLO,
Attorney for Appellant.

Upon reading and filing the above stipulation and good cause appearing therefore it is ordered that

the time of appellant Ed De Bon to file his record and docket said cause on appeal in this Court be extended to and including January 28, 1948.

Dated: December 26, 1947.

FRANCIS A. GARRECHT,
United States Circuit Judge.

A True Copy, Attest.

[Seal] /s/ PAUL P. O'BRIEN,
Clerk.

[Endorsed]: Filed Dec. 26, 1947. [25]

In the United States District Court for the
Northern District of California, Southern
Division

No. 30881-H—(Crim.)

ED DE BON,

Appellant (Defendant),

vs.

UNITED STATES OF AMERICA,

Appellee (Plaintiff).

STIPULATION DESIGNATING PART OF
PROCEEDING TO BE INCLUDED IN
RECORD ON APPEAL AND PRAECIPE

To the Clerk:

Please take notice that it is hereby stipulated that the record on appeal herein shall contain the reporter's transcript of the opening statement made

to the jury by plaintiff's counsel at the trial on July 31, 1947, and his transcript of the proceedings had on September 26, 1947, relating to the sentencing and passing of judgment on appellant.

Dated: January 12, 1948.

/s/ CHAUNCEY TRAMUTOLO,

Attorney for Appellant.

FRANK J. HENNESSY,

U. S. Attorney.

By EDGAR R. BONSALL,

Assistant U. S. Attorney, Attorneys for Appellee,
Plaintiff.

[Endorsed]: Filed Jan. 12, 1948. [26]

District Court of the United States
Northern District of California

CERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 26 pages, numbered from 1 to 26, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of The United States of America, Plaintiff, vs. Ed De Bon, Defendant, No. 30881 H, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of \$8.40 and that the said amount has been paid to me by the Attorney for the appellant herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 26th day of January, A.D. 1948.

[Seal] C. W. CALBREATH,
Clerk.

/s/ M. E. VAN BUREN,
Deputy Clerk.

In the Southern Division of the United States
District Court for the Northern District of
California

Before: Hon. George B. Harris,
Judge.

No. 30,881-H

UNITED STATES OF AMERICA,

vs. Plaintiff,

ED DE BON,

Defendant.

REPORTER'S TRANSCRIPT

Wednesday, July 30, 1947.

JOHN STEVEN HILDEBRAND

called as a witness by the Government; sworn.

The Clerk: Will you state your full name to the court and jury?

The Witness: John Steven Hildebrand.

(Testimony of John Steven Hildebrand.)

The Clerk: John Steven Hildebrand?

The Witness: Yes, sir.

Direct Examination

By Mr. Bonsall:

Q. Where do you live, Mr. Hildebrand?

A. 51 Leo Street, San Francisco.

Q. Are you one of the persons who was indicted in this case? A. Yes, sir, I am.

Q. Were you ever employed by the War Assets Administration? A. Yes, sir, I was.

Q. Between what dates were you employed by them?

A. From August 14, 1945 to March 31, 1946.

Q. In what capacity were you employed?

A. I was employed as an inventory clerk, which covered many specific duties, which I was in one section, automotive section, for the War Assets Administration, Veterans' Service Division.

Q. Do you know this defendant, De Bon?

A. Yes, sir, I do.

Q. Will you point him out in the courtroom?

Mr. Tramutolo: Stand up, Mr. De Bon. [1*]

A. Yes, sir, that is Mr. De Bon.

Mr. Bonsall: It is stipulated this is Mr. De Bon; he has identified Mr. De Bon.

Q. Do you know this other person who was indicted with you, Mr. Csaki?

A. Yes, sir, I do.

* Page numbering appearing at foot of page of Reporter's certified Transcript of Record.

(Testimony of John Steven Hildebrand.)

Q. Did you have any dealings with Mr. Csaki regarding a purchase of a Chevrolet truck from the War Assets Administration? A. Yes, sir.

Q. When did you first contact him regarding the purchase of that Chevrolet truck?

A. I believe it was the night after the units were showed to me, I mean on a brochure.

Q. But before you had this conversation regarding the truck you had a conversation regarding the use of certain priorities didn't you?

A. With whom, sir?

Q. With Mr. Csaki. A. Yes, sir, I did.

Q. When did you have that conversation?

The Court: Mr. Csaki or Mr. De Bon?

Mr. Bonsall: Csaki at this time.

The Court: All right.

Mr. Bonsall: When did you have this conversation with him? [2]

A. It was the evening that I had put in for that Chevrolet truck that you are talking about, sir.

Q. Do you know what data that was?

A. Well——

The Court: Refresh his recollection if you wish.

A. ——around July.

Q. (By Mr. Bonsall): Yes, I show you Veteran's Application for surplus property, and ask you if you have ever seen that before, Government's Exhibit No. 14.

A. Yes, sir, I have, that's right.

Q. When did you first see that?

A. When Mr. Csaki—I asked Mr. Csaki to come down to fill that supplemental form out.

(Testimony of John Steven Hildebrand.)

Q. Well, did you have a conversation regarding the use of his priorities before this form was filled in? A. Yes, sir, I told Mr. Csaki——

Q. When did you have that conversation with him? A. I don't recall, sir, the actual date.

Q. Well, was it a few days before this was filled in, or a week, or a month?

A. Must have been a few months before, sir.

Q. A few months before?

A. I believe that was made out in March—no, I don't recall the date that that was filled out, sir.

Q. This was filled out March 27, 1946. Now, didn't you have [3] a conversation with Mr. Csaki shortly before that was filled in regarding his priorities? A. Yes, sir.

Mr. Tramutolo: I object, your Honor, to the form of the question.

The Court: I sustain the objection.

Mr. Tramutolo: I move that the answer be stricken out.

The Court: Motion granted.

Q. (By Mr. Bonsall): All right. Shortly before this form, Government's Exhibit 14, was filled in, did you have a conversation with Mr. Csaki?

Mr. Tramutolo: Just a minute. I object to the same question, your Honor, upon the ground that is stating something not in evidence. I have no objection to asking when did the conversation occur.

The Court: When, if it did occur, did he have the conversation?

(Testimony of John Steven Hildebrand.)

Q. (By Mr. Bonsall): When did you have the conversation with Mr. Csaki, the first conversation?

A. In regard to this form, sir?

Q. Yes, in regard to the property in this form.

A. Well, Mr. Csaki had a previous priority—I mean an application for a previous priority for surplus property, but he only had just a few items there. Every veteran was allowed \$25,000 in property to be certified for, and he had such a few items that [4] I asked him if he wanted to make out a supplemental to that, getting the rest of the surplus property that was due him.

Q. And what did he say to that?

A. Well, he told me at the time that he didn't need anything more, that things were so darn hard to get out of War Assets that there was no need even in trying to make application any more for anything else, so I told him, "Well, why don't you just take advantage of the veteran's rights?" And which he consented finally to my asking him to do so.

Q. Did he tell you that he didn't have any use for this property any more?

A. He did, sir.

Q. He did tell you he didn't need this property; now, you testify this form purports to be signed by Oscar Csaki. Was it signed by him?

A. Yes, sir.

Q. Did you prepare any of this form?

A. Yes, sir, I did.

Q. Will you identify to the court which parts of this form you prepared, and to the jury?

(Testimony of John Steven Hildebrand.)

A. Do I have to show it to them, sir?

Q. No, just tell them which items you prepared, reading the question and answer you filled in, if you will.

A. I prepared the applicant's name in printing. I printed his [5] name in, his address, and city, and zone, and county and state, and I—and description of enterprise, I printed that in, "Pick up and delivery of scrap iron to different disposal yards; pick up of mattresses and pillows from commercial ships for disinfecting purposes; handling of all types of waste materials and products claimed junk or unserviceable;" and item No. 9, "What experience, training, and/or education have you had which you believe assures the success of this enterprise?" I wrote there, printed, "Father's business, to be taken in as partner."

Q. Where did you get that information from to insert in that application?

A. I made that, myself. I mean that was my own——

Q. Did Mr. Csaki give you that information?

A. No, sir, he did not.

Q. Now, I notice here a number of articles for which Mr. Csaki is purportedly applying. Did you fill those articles in? A. Yes, sir, I did.

Q. Where did you get the information to insert in that particular section?

A. Well, where I got this information was that I was familiar with the necessary procedure of units

(Testimony of John Steven Hildebrand.)

that were available that were readily turned over, and I suggested these units, and I put them down on this sheet here where it says, "Description and list items in order of preference." [6]

Q. What I am getting at, did Mr. Csaki give you that information as to the articles set forth there, or not? A. No, sir.

Q. Do you know who filled in the rest of this form on the first page, Government's Exhibit No. 14? A. You mean the bottom part, sir?

Q. No, the rest of it, the other parts that were not filled in by you; do you know who filled it in?

A. Yes, sir, I believe Mr. Csaki did, the trade name and address, I believe that is his.

Q. Do you know when it was filled in?

A. I believe it was that day, sir, that Mr. Csaki came down.

Q. Did you ask Mr. Csaki to come down and meet you some place?

A. Yes, sir, I asked him to come down and meet me at 1540 Market, whenever he——

Q. When was it you asked him to come down and meet you?

A. It was on the date that was signed, sir.

Q. And he did come down? A. Yes, sir.

Q. And he did sign it? A. Yes, sir.

Q. And what happened to this form?

A. It was presented to the certification section, and I don't recall who certified the form, and pink slip priorities were issued upon the request of that form. [7]

(Testimony of John Steven Hildebrand.)

Q. A pink slip similar to this one, Government's Exhibit No. 6 for Identification, similar to this one?

A. Yes, sir.

Q. And how many of those slips were issued at that time, do you know, or can you tell by reference to this form?

A. Yes, sir. They were issued one in lieu of each item requested on this form, here.

Q. Were those priority slips delivered to Mr. Csaki or to you?

A. They were given to Mr. Csaki, and Mr. Csaki turned them over to me.

Q. What, if anything, did you do with these priority certificates?

A. I just threw them in my glove compartment in my car and left them there.

Q. What did you intend to do with them?

Mr. Tramutolo: Just a moment.

The Court: Sustain the objection.

Mr. Bonsall: All right, all right, all right.

Q. For what purpose did you secure these certificates?

A. Well, I wasn't eligible at all to procure any surplus property from War Assets during the time I was employed by them. Well, I had in mind that if I had the priorities maybe some day Mr. Csaki and I would maybe go into business and we might be able to use them on any of the items that were made available at that time to veterans; and the veterans at that time weren't buying too much of

(Testimony of John Steven Hildebrand.)

the items, because War Assets had set such a high price on a lot of items that were used, but the items that were available were some of the stuff that none of the veterans wanted and were left over after the sale, and shall I go on to say that was the items I had purchased?

Q. Maybe I am mistaken. I understood you to say Mr. Csaki told you he had no further use for this property.

A. That's right.

Mr. Tramutolo: Just a moment. I object to that because he said they made the application because this man was not eligible and they intended to go into business.

The Court: Earlier in his testimony he said that Csaki said he did not have any immediate use.

Q. (By Mr. Bonsall): Do you know if Mr. Csaki's priorities that you secured on the 27th of March were ever executed or not?

A. All of them, sir?

Q. Any of them.

A. Yes, sir, they were.

Q. Do you happen to know which ones were executed?

A. One for a jeep, some ambulances——

Mr. Tramutolo: Pardon me——

A. (Continuing): ——and the White trucks.

Mr. Tramutolo: I ask him to speak up a little louder.

The Court: Speak up.

The Witness: A jeep, some ambulances, and three White trucks, and the Chevrolet truck, sir.

(Testimony of John Steven Hildebrand.)

Q. (By Mr. Bonsall): Did you ever hear from Mr. Csaki regarding the exercise of his priorities for this Chevrolet truck and the three White trucks?

A. Did I ever hear from him, sir?

Q. Yes. A. Yes, sir.

Q. When did you hear from him regarding the exercise of those priorities?

A. When the slips were mailed from War Assets to Mr. Csaki, claiming that he was awarded the trucks that were listed on a mail order request that was submitted by myself to War Assets. The papers that were sent to him were the papers notifying him that the property was available to him and that he was to make payment to the War Assets office.

Mr. Bonsall: Just a moment.

The Court: We will take a short recess, ladies and gentlemen of the jury. May I again admonish you not to discuss the case among yourselves, nor to form or express any opinion on the case until it is finally submitted to you? We will take a short recess. I would like to discuss some matters with counsel.

(Thereupon the jury withdrew from the courtroom and the following proceedings were had:)

The Court: I think Mr. Mitchell has indicated to both counsel that in view of the fact that I am in these courts alone [10] this week calling three calendars, that I desire every expedition in this

(Testimony of John Steven Hildebrand.)

case. I want to commend you thus far on the stipulations you have entered into so far, and if there are any other matters that you can stipulate, without waiving any rights, it seems to me that this is a comparatively simple case.

Mr. Tramutolo: We make no denial of the purchases. The cashier's checks were paid for; money was paid to this man, here, Hildebrand. I don't know whether anything was paid to Csaki, but if it develops, I am will to stipulate.

Mr. Bonsall: Of course, I have to put in the conversation between the co-conspirators, your Honor.

The Court: We agree with that. It is quite all right.

Now, on your instructions, Mr. Tramutolo, if you will have them ready tomorrow morning at ten o'clock.

Mr. Tramutolo: I will have them ready tomorrow at ten o'clock.

The Court: We will take a five-minute recess.

(Recess.)

The Clerk: The witness on the stand is John Steven Hildebrand, heretofore sworn.

Mr. Bonsall: I would like to strike out that last question, your Honor.

The Court: Yes, sir.

Q. (By Mr. Bonsall): Mr. Hildebrand, you said you knew this defendant De Bon.

A. Yes, sir. [11]

(Testimony of John Steven Hildebrand.)

Q. When did you first meet him?

A. I met Mr. De Bon in War Assets around about the latter part of June, I believe it was. I am not positive.

The Court: And the year?

The Witness: In '46, sir.

Q. (By Mr. Bonsall): What address?

A. 30 Van Ness, sir.

Q. How did you come to meet him there?

A. I had business up there, myself, up at 30 Van Ness, and I was talking to someone up there, and we were just introduced. He, I believe was sitting at one of the desks, and we were just introduced, and we got talking about different sales, and the like, and I imagine he knew——

Q. Not what you imagined. What did he say and what did you say?

A. Well, we got talking about some units on a sale that was pending, War Assets, and talking about some of the units that were there for sale, and whether I was putting in for any, myself, and I told him that I hadn't thought of putting for any, that I wasn't interested much in the sale, and I believe it came around that he wanted me to get him some units that were in that sale, if I could exercise a priority.

Q. May I interrupt here? When Mr. De Bon met you did he have any catalogs or other documents in his possession?

A. I believe they were on the desk right there. Whether they were his, I don't recall exactly, but there were some brochures there. [12]

(Testimony of John Steven Hildebrand.)

Q. Do you recall what documents were on the desk?

A. There was a brochure, a catalog of the sale that was to be—that was pending for that week. There was weekly sales and monthly sales, and I believe it was a veterans' sale for that week.

Q. I show you this brochure which is marked Government's Exhibit 11 and ask you if that looks like the brochure that was on the desk or being examined by Mr.——

A. Yes, sir, it is.

Q. And was that brochure opened by either of you?

A. Well, it was opened—that I couldn't say whether it was opened by either one of us, but I was shown what units he was interested in.

Q. What units did he show you he was interested in, if you know? Do you know the nature of the article?

A. This one here. I don't know whether it is—I believe this is the Chevrolet trucks in this one.

Q. That is correct, and what conversation did you have regarding the Chevrolet truck with Mr. De Bon?

A. Well, Mr. De Bon—well, there were units—I mean that were to be transformed, because they were aerial gunnery trucks, and aerial gunnery trucks are units that aren't used commercially, but they were an item that a lot of dealers probably wanted because they knew very well that a lot of the veterans wouldn't have too much use for an aerial gunnery truck, because, say, it [13] would

(Testimony of John Steven Hildebrand.)

take too much to reconvert, so they were items probably that are left over after the sale, so I was asked if I could possibly get any of these units. I told him I would try, so I went down to War Assets across the street from 30 Van Ness, at 1540 Market, and I went over there and submitted an application which was a mail order request for the unit in question, and there was one unit that was left over after the sale that none of the veterans wanted. That was the unit that was awarded me there. There was some discussion there about the units, and, well, they made me an award of this unit, this aerial gunnery truck that Mr. De Bon wanted.

Q. Was there anything said about the use of priorities in connection with the purchase of that?

Mr. Tramutolo: Just a moment, if your Honor please. I am going to object to any leading questions.

Mr. Bonsall: I will withdraw it.

The Court: Objection sustained.

Q. (By Mr. Bonsall): Was Csaki's priority used in the purchase of that——

A. Aerial gunnery truck.

Q. ——aerial gunnery truck, if you know.

A. Yes, sir.

Q. Do you happen to know if Mr. De Bon——

A. Pardon me.

Q. ——had any priorities? [14]

A. No, sir, not that I know of, he never had any.

Q. Specifically, do you happen to know if Mr. De Bon had any veterans' priorities?

(Testimony of John Steven Hildebrand.)

Mr. Tramutolo: We will stipulate he had no veterans' priorities, your Honor.

A. No, sir.

Q. (By Mr. Bonsall): After this White truck was picked up by Mr. De Bon——

Mr. Tramutolo: Just a moment. I don't know that he made any testimony about a White truck. He was talking about a Chevrolet gunnery truck.

The Court: There is no such testimony in the record.

Q. (By Mr. Bonsall): After this Chevrolet truck was picked out by Mr. De Bon, what did you do, if anything?

A. I explained to him what the order was, and that the necessary papers were made out, and that he was to pay War Assets for the Unit that was sold to me on Oscar's priority for Mr. De Bon.

Q. I show you this form, purporting to be a mail order request for surplus property, dated July 8, 1946, and to be signed by Oscar Csaki, J.D.H., I think it is, and ask you if you have ever seen that before. This is Government's Exhibit No. 1 For Identification.

A. Yes, sir, that is my signature, and my initials after the name, after the signature, after Csaki's signature.

Q. Did Csaki sign it, or did you sign it? [15]

A. I signed it.

Q. Did Mr. Csaki tell you to sign it?

A. I believed I discussed the matter with Mr. Csaki afterwards.

(Testimony of John Steven Hildebrand.)

Q. After it was signed? A. Yes, sir.

Q. And when did you discuss this with Mr. Csaki?

A. I believe it was that same night.

Q. At what place?

A. I believe it was at my own home, sir.

Q. Who was present, if anyone?

A. No one that I can remember, sir.

Q. Tell me what conversation you had with Mr. Csaki at the time you told him you had signed this without his knowledge?

Mr. Tramutolo: Your Honor, just a moment. I object to that on the ground there is absolutely at the present moment no tie-in or identification of Mr. De Bon with any wrongdoing. This is an attempt to discuss a conversation not in the presence of Mr. De Bon, and up to the present moment I am frank to say I do not see that there is any connection with Mr. De Bon in the whole transaction.

The Court: The earlier conversation with De Bon that this witness testified he had with respect to surplus commodities is the only identification thus far that De Bon has had with any of these alleged transactions.

Mr. Tramutolo: That is right. [16]

Mr. Bonsall: Of course, in a conspiracy case we can't do it all at once. We have to do it piecemeal.

The Court: What was the last question?

(The reporter read the last question.)

The Court: You may answer.

(Testimony of John Steven Hildebrand.)

A. Well, I explained to Mr. Csaki what I had done, and he asked me if it was at all legal, and I told him, well, I thought that it was at the time, and that I didn't think there was anything wrong, or nothing would come of it, and he was aware of the transaction that took place.

Q. (By Mr. Bonsall): Now, I wish you would repeat the conversation that you had with Mr. Csaki as near as you can, instead of the results of the conversation.

Mr. Tramutolo: I submit, your Honor, that is cross-examination. He asked him the direct question, and the answer is in the record.

The Court: It probably is. Did you give the full purport of the conversation you had with Mr. Csaki at the time you made the explanation of the use of his name in connection with that paper you hold in your hand?

The Witness: I told Mr. Csaki I had gotten this unit for Mr. De Bon, and I believe it was at this time I asked him if he wouldn't come down and sign some papers to clear this unit, and he told me that he would, and he would be down, I believe it was, the next day, if I am not mistaken, that I had to get the necessary [17] papers submitted to War Assets for clarification of the units.

Q. (By Mr. Bonsall): Did Mr. Csaki make any objection to entering into——

A. Yes, he made——

Mr. Tramutolo: I object to that question—just a moment—on the ground it is leading and suggestive. He asked for the entire conversation.

(Testimony of John Steven Hildebrand.)

The Court: It is perhaps leading. What, if anything, did Mr. Csaki say when, as you testified, you made explanation. Did he say anything to you?

The Witness: I told him that I would like to have him come down and sign the necessary papers. Mr. Csaki said he would.

The Court: Did he ask you anything further in explanation of the transaction?

The Witness: Yes, he asked me who I had gotten this for, and I explained to him who I had purchased it for.

The Court: Did you tell him who Mr. De Bon was?

The Witness: Yes, sir, I told him he was a dealer from Eureka, and I had made an acquaintance with him at 30 Van Ness.

Q. Did you discuss with him any purported arrangements you had with De Bon?

The Witness: I believe I told Mr. Csaki he was to give me some money.

The Court: He, De Bon, was to give you some money? [18]

The Witness: For the purchase of the unit.

The Court: What conversation, if any, did you have with De Bon with respect to any money?

The Witness: I believe it was that I was to get either fifty or a hundred dollars for the unit.

The Court: On this transaction?

The Witness: Yes, on this transaction.

The Court: You acquainted Csaki with the full purport of that conversation?

(Testimony of John Steven Hildebrand.)

The Witness: Yes, sir, I did.

The Court: And it was the following day, as you have already testified, that Csaki came down and executed the formal papers?

The Witness: Yes, sir, that's right.

The Court: All right, proceed.

Q. (By Mr. Bonsall): Have you told us everything that Mr. Csaki said regarding this transaction?

A. He was dubious about the whole transaction.

Mr. Tramutolo: Just a minute.

The Court: "Dubious" may go out. State the conversation to the best of your recollection. If you can't recall the conversation, state very frankly that you can't recall it.

The Witness: I can't recall it, sir.

The Court: All right, then you can't recall it.

Q. (By Mr. Bonsall): Did you ever actually get the \$50 from [19] Mr. De Bon?

A. Yes, I did.

Q. When did you get that?

A. After the necessary papers and everything were signed.

Q. Where did you get it?

A. I believe it was outside of 30 Van Ness where I got it.

Q. Who was present?

A. No one that I recall except Mr. De Bon.

Q. Was it in bills or a check?

A. It was cash, sir.

(Testimony of John Steven Hildebrand.)

Q. What kind of cash was it, do you recall?

The Court: Currency or——

Q. (By Mr. Bonsall): Bills, large bills?

A. It was in bills, sir.

Q. What did you do with this money?

Mr. Tramutolo: Now, just a moment. That is immaterial so far as we are concerned. We are making no denial, as I stated, to counsel before, that this man was given money by De Bon. De Bon paid for these trucks direct by check to War Assets.

Mr. Bonsall: Yes, but it is very important that we know what happened to this money.

The Court: You received the \$50 as you testified?

The Witness: Yes, sir.

The Court: What, if anything, did you do with the \$50? [20]

The Witness: I gave Mr. Csaki, I believe, either twenty or twenty-five dollars of it, sir.

Q. (By Mr. Bonsall): When did Mr. De Bon pay for the Chevrolet truck?

Mr. Tramutolo: I submit, if your Honor please, that the best evidence is the document here. I will stipulate whatever date it is. I again reiterate that he did pay.

The Court: Mr. Tramutolo, as I understand the testimony—if I am mistaken, I will appreciate it if you will correct me—the jurors are vitally interested in this phase of the case. Am I to understand that the defendant De Bon paid by cashier's check to War Assets the amount indicated for the purchase of this truck?

(Testimony of John Steven Hildebrand.)

Mr. Tramutolo: Correct, the full amount to the government. Whatever was on the invoice De Bon paid direct to War Assets.

Mr. Bonsall: But I want to show where this \$50 went.

The Court: He has already testified he gave \$25 to Csaki. Have you completed this transaction?

Mr. Bonsall: Yes, I have.

The Court: All right, go to the next transaction.

Q. (By Mr. Bonsall): At the time you discussed the purchase of this Chevrolet truck with Mr. De Bon did you discuss the purchase of any other property?

A. Yes, we did. We discussed——

Q. Just a moment. At the time you had that discussion were [21] there any books or catalogues on sales available? A. Yes, sir, there were.

Q. Were they examined in connection with that discussion of the purchase of any of the property?

A. Yes, sir, they were.

Q. Now, I show you this brochure marked Government's Exhibit 12 in evidence and I ask you if at the time of the discussion of the purchase of other property this brochure was used or one similar to that. A. Yes, sir, it was.

Q. And did Mr. De Bon point out what property or indicate what property in that brochure he would like to obtain?

A. Yes, sir, there was some trucks in here, six-ton Whites.

(Testimony of John Steven Hildebrand.)

Q. Three six-ton Whites?

A. He didn't specifically state how many, sir, just any one six-ton White. [22]

Q. Did he state how many he wanted?

A. As many as he could get, sir.

Q. As many as he could get. Was anything said about paying you in connection with obtaining these trucks?

A. Yes, sir. Mr. De Bon agreed to pay me, I believe it was \$200 a unit for every truck that I could possibly get him.

Q. And were those trucks obtained on Mr. Csaki's priorities? A. Yes, sir, they were.

The Court: Before advancing from this point, could you specify to the best of recollection the date when you had this conversation or understanding with Mr. De Bon concerning the \$200, in point of time?

The Witness: I believe, sir, it was on July 8 when the transaction of the Chevrolet took place. It was on the same date.

The Court: Where did it take place?

The Witness: 30 Van Ness.

The Court: You had a conversation in the office concerning the White trucks?

The Witness: Yes, sir.

The Court: And at that time the defendant in this case, De Bon, agreed to pay you \$200?

The Witness: Yes, sir, your Honor.

The Court: —for every truck you were able to obtain?

(Testimony of John Steven Hildebrand.)

The Witness: Yes, sir. [23]

The Court: All right.

Q. (By Mr. Bonsall): After you had that discussion with Mr. De Bon about the White trucks, did you execute a mail order request for the purchase of such trucks? A. Yes, sir, I did.

Q. I show you this form WAASF29, Government's Exhibit for identification No. 5, dated July 8, 1946, and I ask you if that is the form that you executed for these three White trucks.

A. Yes, sir, that is the form.

Q. I notice that it purports to be signed by Arthur Csaki. Do you know whose signature is in fact on there? A. Yes, sir, that's mine.

Q. When did Mr. Csaki first learn that this form had been executed?

A. It was that night, that same night of the Chevrolet.

Mr. Bonsall: I ask that this be marked Government's exhibit next in evidence.

The Court: So ordered.

The Clerk: The exhibit which is now Government's Exhibit No. 5 for identification is now Government's Exhibit No. 5 in evidence.

(Form WAASF29 marked as Government's Exhibit No. 5 for identification received in evidence.)

Q. (By Mr. Bonsall): Were you ever paid by Mr. De Bon for obtaining these three trucks? [24]

A. I wasn't paid the full amount, sir, because——

(Testimony of John Steven Hildebrand.)

Q. How much were you paid?

A. Roughly about \$400.

Q. And when were you paid?

A. Around the 26th or 28th of July.

Q. And where?

A. It was outside of 30 Van Ness. We were in his automobile.

Q. And was anything said by Mr. De Bon as to why you were not paid the full amount of \$200 for each of these trucks?

A. Yes, sir. The trucks seemed to be in very poor condition and that they weren't exactly good for his purposes with the condition that they were in, and he figured that the amount of money due me was not worth the—worthy of the trucks, so I wasn't given the right amount of money for the trucks.

Q. By the way, did you ever see any of these trucks, the Chevrolet truck or the three White trucks?

A. No, sir, I did not.

Q. Do you know who paid for the trucks?

A. Yes, sir, Mr. Ed De Bon.

Mr. Bonsall: Just a moment, your Honor.

Q. Oh, yes, one other question regarding this Chevrolet truck and the three White trucks; did you ever have any intention of purchasing them before you talked to Mr. De Bon?

Mr. Tramutolo: Just a moment. That is objected to as being leading and suggestive. What we want is what actually [25] happened.

The Court: Sustained.

Mr. Bonsall: No further questions, your Honor

(Testimony of John Steven Hildebrand.)

Cross-Examination

By Mr. Tramutolo:

Q. Mr. Hildebrand, how old are you, sir?

A. 28, sir.

Q. And what is your present occupation?

A. Service station operator.

Q. Where? A. In Oakland.

Q. That is, you have an oil station?

A. Gasoline and oil, sir.

Q. And I believe you stated you are identified with War Assets from August 1946 until about March 1946, the 31st of March 1946?

A. No, sir. I was employed at War Assets from August 1945 till approximately '46.

Q. To March 31, '46? A. Yes, sir.

Q. You are correct and I am mistaken. When did you first meet Ed De Bon, the defendant in this case, seated right behind me?

A. I don't recollect actually the date, but it was some time in June.

Q. Of 1946? A. Yes, sir.

Q. Had you seen Mr. De Bon at the War Assets many times previous [26] to then?

A. No, sir, I don't recall seeing him up there at any time previous to that time.

Q. Well, in June of 1946 when you first saw Mr. De Bon he was in a public room at 30 Van Ness Avenue, War Assets?

A. Yes, sir. It is a big office, one floor office building there, with numerous amount of office desks segregated into sections.

(Testimony of John Steven Hildebrand.)

Q. And on these various desks were various brochures and documents for sales to occur from time to time? A. Yes, sir, that's right.

Q. And at the time you saw him he was at a desk thumbing through or looking at one of these brochures or several brochures?

A. That I couldn't recall whether it was several or just how many were there.

Q. I believe you testified you helped Mr. Csaki prepare his application.

A. I didn't help Mr. Csaki. I made the application myself in certain parts. Mr. Csaki——

Q. Did you make the—Pardon me, I did not want to stop you.

A. Mr. Csaki just signed his name and filled in his address.

Q. Are you referring to the one signed March 27, 1946, or the one in December, 1945?

A. I am referring to the supplement which was signed, I believe, in March 27, 1946. [27]

Q. Let me show you the one prepared in December of 1945. Did you prepare that or help him prepare or write any portion of that?

A. No, sir, I did not.

Q. Do you know who wrote that?

A. Yes, sir.

Q. Who? A. Mr. Csaki himself.

Q. You notice what it contains on there and what he requested, do you not?

A. Yes, sir, a three-quarter or one-half ton truck.

(Testimony of John Steven Hildebrand.)

Mr. Bonsall: It seems immaterial and not in issue.

Mr. Tramutolo: Oh, yes.

The Court: Overruled. Go ahead.

The Witness: It is a three-quarter or one-half ton truck rack side or CSDP or flatbed GMC Chev, Dodge or Ford, and he has got struck out "one each 5 passenger sedan or 4 door sedan preferred Plymouth, Chevy, or Ford, 1941 or 1942 model," and "2 each standard typewriters preferred Underwood or Remington."

Q. (By Mr. Tramutolo): This is the application filed by Mr. Csaki in December 1945?

A. That is right.

Q. Had you seen this document before?

A. No, sir, I don't recall seeing it before. [28]

Q. Didn't you have access to the documents prepared by veterans in your capacity?

A. No, sir, I did not.

Q. What was your particular work at War Assets?

A. My particular work at War Assets was the automotive section. I handled the veterans' needs that pertained after the sale—after sale of the property that was left over to the veterans, and I also initialed certain documents that went by—went through the sales to the veterans offering them necessary items that they were requesting.

Q. Now, referring to Government's Exhibit 14, in which you stated Mr. Csaki, all he did on this one was to sign his name, in which you had filled in

(Testimony of John Steven Hildebrand.)

all the essential materials or facts as to why he wanted this material, the jeep and the trailer and the pickup truck and the dump truck and three van trucks, the ambulance and what not, this supplemental exhibit or document from which I am now reading——

A. Is that No. 14?

Q. No. 14 is the one you filled out in its entirety?

A. No, sir, I did not fill it out in its entirety.

Q. What information did Mr. Csaki give you on that?

A. "Csaki and Son Salvage Company," and he wrote 1355 Market; in other words, those items 3, 4 and 5.

Q. All right, now——

A. And his own signature. [29]

Q. Yes, and at the time this was filled out——

A. Yes.

Q. ——was there any intention on your part with Mr. Csaki to defraud the government?

Mr. Bonsall: That is objected to as calling for a conclusion.

Mr. Tramutolo: Well, that is what you charge. You charge that in the indictment.

The Court: Overruled.

The Witness: Would you repeat that again, sir?

Mr. Tramutolo: Did you at the time you prepared this supplemental application in which you included many items that were not included in the one filled out by Mr. Csaki in December 1945 intend to defraud the government?

A. No, sir, I did not.

(Testimony of John Steven Hildebrand.)

Q. It was your honest intention, was it not, to get the material mentioned in here and go into business with Mr. Csaki?

A. We had mentioned it once or twice——

Q. That was your reason——

Mr. Bonsall: Let him answer in full.

Q. (By Mr. Tramutolo): Go ahead.

A. ——mentioned it once or twice, but it never materialized because Mr. Csaki figured the property available at that time was too hard to get and there was so much red tape connected with it and veterans weren't getting too much out of it, and he figured we better not even try for it.

Q. When did you come to that conclusion that you were going to abandon efforts to get this property in government Exhibit 14 dated March 27, 1946?

A. I believe it was some spell after that, not very long after that.

Q. What were you doing at the time you met Mr. De Bon? What was your business when you met him in the latter part of June 1946; what business were you in?

A. I was purchasing agent for Mr. Tom P. Mee, the California Farm and Equipment Company at Bakersfield, California.

Q. What was the nature of his business?

A. We were purchasing surplus property through dealership channels.

Q. You were familiar with sales to veterans and others who had priority, thoroughly familiar, were you not?

A. Yes, sir.

(Testimony of John Steven Hildebrand.)

Q. Did Csaki have any knowledge of that?

Mr. Bonsall: That is something probably not in his knowledge.

The Court: Sustain the objection.

Q. (By Mr. Tramutolo): You told Mr. Csaki he had a right to apply for a quantity of material up to \$25,000; you acquainted him with that fact, didn't you? A. Yes, sir.

Q. Were any of these documents I have now shown you prepared [31] by Mr. De Bon?

A. No, sir.

Mr. Bonsall: I will stipulate they were not.

Mr. Tramutolo: Well, you are late with your stipulation. Your stipulation is after he answers.

Q. Now, Mr. Hildebrand, will you tell this court and jury whether or not Mr. De Bon ever suggested that you or anybody else do anything dishonest to obtain property from the government?

Mr. Bonsall: That is objected to as calling for a conclusion.

The Court: Sustained.

Mr. Tramutolo: Your Honor, it is a conspiracy and it is under cross-examination.

Mr. Bonsall: What did he say?

The Court: It does call for a conclusion as to what may be regarded as honest or dishonest.

Q. (By Mr. Tramutolo): Was Mr. De Bon, to your knowledge, Mr. Hildebrand, aware of any dishonest act being done by you or Mr. Csaki?

A. Yes, sir.

Mr. Bonsall: Objected to for the same reason.

(Testimony of John Steven Hildebrand.)

The Court: Perhaps it is subject to the same objection. Will you ask him what, if anything, he did?

Q. (By Mr. Tramutolo): All right, what did Mr. De Bon say to you with respect to obtaining any of these trucks that you have [32] mentioned?

A. He knew I was using Mr. Csaki's priorities, and I told him so.

Q. When? A. Pardon me?

Q. When did you tell him?

A. Before we made application for the units I had to tell him that, because I didn't have any priorities myself that covered any of those units and I told him I was, and he was aware of it.

Q. Did he tell you what to put in any of the documents that were signed and filed with War Assets? A. Of which do you refer to?

Q. Any of the documents, whether the application, the mailing order or the pink slip, or anything to War Assets that gives you title to the property. Did Mr. De Bon make any suggestion as to what should be put into any of those documents?

Mr. Bonsall: You mean the articles he wanted?

A. That's right.

Q. (By Mr. Tramutolo): Outside of the articles? A. Outside of the articles?

Q. Yes. He told you he was interested in trucks.

A. Yes, sir.

Q. Chevrolet trucks. A. Yes, sir.

Q. One Chevrolet or two. [33]

A. There was a numerous amount of Chevrolets in that brochure.

(Testimony of John Steven Hildebrand.)

Q. No, the amount he was interested in, getting as many as he could get. A. Yes.

Q. Do you know how many he got?

A. He got one.

Q. You are sure he didn't get two?

A. He got one other truck that was on my own priority.

Q. On yours? A. That's right.

Q. Then he did get two.

Mr. Bonsall: That is not an issue here.

Mr. Tramutolo: Oh, I see.

Q. Now, with respect to the White trucks that have been mentioned here, the three.

A. Yes, sir.

Q. Outside of indicating that he wanted these trucks, did Mr. De Bon have anything to do with the preparation of any documents that you and Csaki prepared?

A. No, sir, all he told us was which item he wanted.

Q. And so far as you knew, he was entitled to these articles when the veterans did not want them, isn't that correct? A. No, sir.

Mr. Bonsall: I object to that.

The Court: The answer is "No, sir." If you object to it, [34] it may go out. Do you wish it out of the record?

Mr. Bonsall: Yes, your, Honor, all right.

The Court: It may be stricken.

(Testimony of John Steven Hildebrand.)

Q. (By Mr. Tramutolo): Did you have any transaction with De Bon after these truck transactions?

A. No, sir, I only went up to Eureka there to ask for a job.

Q. Did you ever correspond with him?

A. Yes, sir.

Q. And what was the nature of your correspondence? A. It was in reference to a job.

Q. You wanted to work for him?

A. Yes, sir.

Q. In other words you left the company you were working for in Bakersfield. A. Yes, sir.

Q. And Bakersfield was similarly in the market to buy anything from War Assets Mr. De Bon was interested in, isn't that true?

Mr. Bonsall: That is not material to the issues here.

The Court: Sustained. Sustained.

Mr. Tramutolo: Did you ever acquaint Mr. De Bon with any irregularities that transpired or took place between you and Mr. Csaki at any time?

Mr. Bonsall: Well, of course, the way that question is framed it calls for a conclusion. I object to it in that form.

The Court: I will overrule the objection. [35]

The Witness: Is that question still on the floor, sir?

The Court: You may answer it.

The Witness: Would you give it to me again, Mr. Tramutolo?

The Court: Repeat the question.

(Testimony of John Steven Hildebrand.)

Mr. Tramutolo: Does your Honor want it read by the Reporter?

The Court: Yes.

(The Reporter read the last question by Mr. Tramutolo.)

A. Just to the fact that he was aware that the priorities——

Mr. Tramutolo: Just a moment.

Mr. Bonsall: Let him answer.

The Court: Let him answer. Proceed.

The Witness: ——that the priorities that I was using weren't my own. He was aware of that.

Q. (By Mr. Tramutolo:) That the priorities weren't your own? A. Yes, sir.

Q. You did tell him you would have to use veterans' priority?

A. That was the only way we could purchase the surplus property that was offered.

Q. And so far as you knew it, that was the legitimate legal way to do it? A. That is right.

Q. You weren't trying to put anything over on the government or defraud or fool Mr. De Bon, were you?

Mr. Bonsall: That is argumentative, your Honor.

The Court: Sustained. [36]

Q. (By Mr. Tramutolo:) Were you, or did you ever acquaint Mr. De Bon that you were doing anything that was illegal or dishonest in the acquirement of these trucks?

Mr. Bonsall: Well, may it please the Court——

(Testimony of John Steven Hildebrand.)

Mr. Tramutolo: This man is familiar with the entire War Assets procedure.

Mr. Bonsall: What did he do?

Mr. Tramutolo: This is a cross-examination.

The Court: I will allow latitude on cross-examination but I do think the question as framed is objectionable. I will sustain the objection.

Q. (By Mr. Tramutolo:) All right, did you ever tell Mr. De Bon that you had to do anything irregular or illegal and dishonest to get these trucks for him?

A. No, all I told Mr. De Bon was that all that I could do was put in for the units and just hope to get them, that was all.

Q. And you did that, you put in for the units, you applied for them?

A. Yes, at his suggestion.

Q. When you put the application in, what were you told? A. By War Assets?

Q. War Assets or anybody connected with the government for the disposition of these trucks.

A. I wasn't told anything because I put it in as a mail order request, and you could submit that to anyone in War Assets. [37] You could put it through the mail, and whoever gets the unit—I mean, whoever receives the mail distributes it to that unit section and it is opened there.

Q. Do I understand you to say you forged Csaki's name in order to get this equipment?

A. I did not forge Csaki's name. My initials appear on the bottom of that.

(Testimony of John Steven Hildebrand.)

Q. Csaki was entitled to this property?

A. That's right.

Q. And after acquiring it, he disposed of it to Mr. De Bon? A. After he acquired it.

Q. In other words, transfer or bill of sale was given by War Assets to Csaki and then Csaki gave a bill of sale to Mr. De Bon, but first Csaki got the property, didn't he?

A. It had to be issued to him, yes.

Q. That is right. Mr. Hildebrand, you have entered a plea of guilty in this matter, have you not?

A. I have.

Mr. Tramutolo: That's all.

Redirect Examination

By Mr. Bonsall:

Q. One other question. I should have asked it on direct, but I will ask leave to ask it at this time.

Mr. Tramutolo: I have no objection, your Honor.

Q. (By Mr. Bonsall): The \$400 you say you received from Mr. De Bon, what happened to that money; did you keep it or what? [38]

A. No, I gave Mr. Csaki \$125 of it.

Q. You gave Mr. Csaki \$125——

No other questions.

The Court: Mr. Tramutolo?

One question. Who fixed the amount of \$200 for each unit on the White trucks? Did Mr. De Bon fix the amount or did you?

The Witness: I don't recall, sir, which one.

(Testimony of John Steven Hildebrand.)

The Court: Did you have any discussion of the amount, be it \$100 or \$200? It must have been resolved in some fashion. Who fixed it?

The Witness: I believe it was Mr. De Bon told me how much they were worth because I wasn't too familiar with dealer's characteristics as to the amount that should be paid off for each unit, so I imagine he set the figure, because he was the man with the money and I didn't have the money, so I guess it was Mr. De Bon that actually told me how much the units were worth to him.

The Court: Did he indicate to you what you were to do in consideration of the payment by him to you of something like \$200 for each unit?

The Witness: No, sir. I just took it for granted I would have to handle the paper work for him and the necessary steps of having Oscar—I mean Mr. Csaki—sign the necessary papers for him to procure the units.

The Court: Well, without the intervention of Csaki, De Bon [39] could not acquire any or all of these units?

The Witness: That is right, sir.

The Court: Or without the intervention of the veterans' priority, De Bon could not acquire any or all of these units?

The Witness: No, sir, he could not.

The Court: Could you independent of Csaki?

The Witness: Of Csaki?

The Court: Yes.

(Testimony of John Steven Hildebrand.)

The Witness: Yes, sir, but I wasn't certificated for the same items Mr. Csaki was certificated for.

The Court: So it was impossible for you to acquire any or all of the units?

The Witness: At the time War Assets had given me a wrong priority slip.

The Court: Why did you go to work for War Assets?

The Witness: I was to work for them at first in the storage and inspection division.

The Court: At Bakersfield?

The Witness: No, you asked why I worked for War Assets. Well, when I got out of the army I felt that I would like a more secure job, one without unions, because I was always out on a picket line here and there, and I figured I may as well get in government work. I liked the army when I was in it, and government work seemed to be all right that way.

The Court: Did you disclose to Mr. De Bon, the defendant [40] in this case, that you were dividing any of or part of the \$400 or any of the sum with Csaki?

The Witness: I believe he understood it, yes, sir.

The Court: Did you indicate to him the exact amount of \$125?

The Witness: No, sir, I did not indicate the amount.

The Court: But you did tell him you were dividing part of the funds?

The Witness: Yes, sir.

(Testimony of John Steven Hildebrand.)

The Court: Did you indicate that before these transactions had been consummated?

The Witness: I believe it was after, sir.

The Court: After? No further questions.

Mr. Bonsall: No further questions.

Mr. Tramutolo: Just this one question. When did you join War Assets? Did I understand you to say it was after you got out of the service?

The Witness: No, sir, I had another job before I went to War Assets.

Mr. Tramutolo: What was that job?

The Witness: I worked for a frozen food outfit down on Washington Street, Levi & J. Zeddner Frozen Produce.

Mr. Tramutolo: Then from Levi Zeddner you went to War Assets?

The Witness: Yes, sir. [41]

Mr. Tramutolo: That is all.

Mr. Bonsall: No further questions.

The Court: Ladies and gentlemen of the jury, we have reached the 4:00 o'clock hour and accordingly the court will adjourn until tomorrow morning at ten o'clock, and may I again admonish you not to discuss the case among yourselves or permit any person to converse with you on any subject of the trial and not to form or express an opinion thereon until the case is finally submitted to you. We will adjourn until tomorrow morning at ten o'clock.

(Thereupon, at 4:05 p.m., an adjournment was taken until Wednesday, July 30, 1947, at 10:00 o'clock a.m.)

Wednesday, July 30, 1947, 10:00 o'Clock A.M.

The Clerk: United States of America vs. Ed De Bon, on trial.

Mr. Bonsall: Ready, your Honor.

Mr. Tramutolo: Ready.

Mr. Bonsall: Call Oscar Csaki.

Mr. Tramutolo: Mr. Bonsall, may I ask the Court's permission to put Mr. Hildebrand back on the stand for one or two questions?

The Court: May it be stipulated, gentlemen, the jurors are all present in the jury box?

Mr. Tramutolo: I so stipulate.

Mr. Bonsall: So stipulated.

The Clerk: The witness on the stand is John Steven Hildebrand, heretofore sworn.

The Witness: No, the witness is Oscar Csaki.

Mr. Bonsall: My mistake. I called Mr. Csaki and Mr. Tramutolo wants Mr. Hildebrand first.

JOHN STEVEN HILDEBRAND

recalled, previously sworn

Further Cross-Examination

The Clerk: Your name is John Steven Hildebrand?

The Witness: Yes, sir. [43]

The Clerk: Heretofore sworn.

Q. (By Mr. Tramutolo): Mr. Hildebrand, I didn't quite hear yesterday. You were about to explain something to the effect that you had filed an application for goods that you wanted to get, you and

(Testimony of John Steven Hildebrand.)

Mr. Csaki, and that there was some mistake made on your application. Was that the substance of what you testified to yesterday?

Mr. Bonsall: Just a moment. I object. I don't think it is germane to the property here in issue.

Mr. Tramutolo: That I am going to develop.

The Court: I will allow it as a preliminary question.

A. The property I had put in for I could not get, because the partner I had—well, he wasn't my partner, he was the man I was working for—had already made application of his own. Therefore, the War Assets could not allow two veterans in the same organization to file applications; one of us had to drop out. Therefore, I had more applications that I had already used; therefore, I didn't have anything left except maybe a few thousand dollars or so on my——

The Court: When you say a few thousand dollars, you mean the quantum in merchandise rather than——

The Witness: Yes.

The Court: Have in mind, ladies and gentlemen of the jury—If I am incorrect, correct me—the total outside limitation is \$25,000. [44]

The Witness: Yes, sir.

The Court: When you say a few thousand dollars, you mean you might have allocated to you that amount in merchandise?

The Witness: That's right.

The Court: All right.

(Testimony of John Steven Hildebrand.)

The Witness: Therefore, I just didn't feel that I ought to go through with any more of the application, and they were pretty much on the hard side about me getting anything out of it, being that I knew everybody down there, figuring that I might go ahead and say, "Well, how about letting me in on the dope, or something else on any sale," which I didn't do, because I just took everything as it was on sale. That was all I knew, whatever sale was presented down there. That was what I participated in, but as it was I didn't participate in anything but dealers' sales for this fellow I was working for.

Q. (By Mr. Tramutolo): Who were you working for at the time? A. Tom P. Mee.

Q. The man that you testified about in Bakersfield? A. That's right.

Q. And he was, as I believe you testified, buying surplus materials? A. That's right, sir.

Q. Property from War Assets?

A. That's right, sir.

Q. And you were on the lookout for goods he was interested in? [45]

Mr. Bonsall: I don't see how that is material to this issue.

The Court: I think so, counsel. I can see the materiality.

Q. (By Mr. Tramutolo): When you say you didn't go through with the application to get the trucks involved here, it was because you had ex-

(Testimony of John Steven Hildebrand.)

hausted your twenty-five thousand you were entitled to in the way of goods from War Assets, all but \$2000, is that correct?

A. No, I wouldn't say that. I don't recall the exact amount.

Q. Well, approximately how much had you exercised of the \$25,000, just approximate? You don't have to be exact to a dollar, or in cents, Mr. Hildebrand, just the best of your recollection.

A. Just about \$2000.

Q. In other words, you had exhausted or had used up twenty-three thousand, approximately?

A. That's about right.

Q. And the reason you wanted the applications for these trucks to go through Mr. Csaki is that he had not exercised any portion of his twenty-five thousand to which he was entitled, is that right?

A. That's right.

Q. How long had you known Mr. Csaki?

A. I had known Oscar ever since we went to service together January 27, 1941. [46]

Q. You were in the service together?

A. That's right, sir.

Q. In the same organization?

A. That's right.

Q. I see, and were you and Csaki residents of San Francisco or this locality?

A. Yes, sir.

Q. Was your first acquaintance with him when you went in the Army, or had you known him previous to that?

A. The first acquaintance was in the service.

(Testimony of John Steven Hildebrand.)

Q. Did you have any dealings with Mr. Csaki while you were with War Assets or after you left War Assets?

A. No, sir, only your mentioned deal here.

Q. The trucks in this case? A. Yes, sir.

Q. Had you mentioned to Mr. Csaki that you were going to prepare any documents whatsoever using his name?

A. I mentioned to him after I had prepared the documents.

Q. Now, the document that you prepared which you signed Oscar Csaki's name to is merely the order, is it not, to get the goods whenever they may be located?

A. It is a request for War Assets to participate in that particular sale.

Q. What was the document which you had signed? Is that a *requestion* or is that the final document which gives you the goods [47] or enables you to get the goods?

A. No, I could not find any document that had his name written on it on any form from War Assets. That had to be signed by himself. The only thing I could possibly sign would be that mail order request, and I initialed that.

Q. In other words, the mail order request—will you explain—I think you understand it better than I do. I might be misleading you. Personally, I don't want to mislead you or the jury or the court. What is the mail order request? What effect has that when it is signed?

(Testimony of John Steven Hildebrand.)

A. Well, when it is signed and sent in to War Assets it is just a declaration that you are interested in those particular items enumerated, and you can stipulate as to the—if I can have a brochure I can explain something.

Q. Would the document, itself, help you?

A. Pardon me?

Q. Would the documents, themselves, help you, or would the brochure be the best?

A. The brochure would be much better. Is it all right if I show the jury, sir?

The Court: If there is any occasion for it.

The Witness: Well, on the brochures there is an item column, a tag number column—well each one of these item numbers and tag numbers is put down on this mail order request. It is just the items you are interested in in this catalog and that [48] goes on the mail order request, and it is sent in, and you don't know whether you are going to get those items, or not. It is acted upon on a system the War Assets has set up for each one of their sales. It is directed by a person at the head of the auditorium, or wherever the sale may be conducted, and he calls out by case number, which is on the pink slip that the counsel there showed the jury yesterday. that gives you a certain priority. That is where your priority is based, and it is set up so that with that priority number that you have at the top of that pink slip, that is how they give you an order on whatever items you have requested on that mail order request. But if you haven't got a high enough priority number, well, in order words, the numbers are lower,

(Testimony of John Steven Hildebrand.)

the lower the number the greater your priority is, but the higher your number the less priority you have, because the way the veterans have filed, War Assets, was according to case number. That is this number I am explaining to you now, and they presented themselves with their information of what they wanted, and this priority number was given to them at that particular time. Then when they presented that at any of the sales, whatever number they presented to them, whatever item they wanted, they took right down the list the lowest case number, and the lowest case number got the item if more than one veteran wanted the item, but in the case of these units mentioned here—I mean the Chevrolet—that was an after-the-sale unit. The other three [49] were just given to us through the chance that we took on this brochure.

Q. (By Mr. Trautolo): Let me show you Government's Exhibit, Mr. Hildebrand, No. 5. This is known as the mail order request for surplus property. The signature on that, is that your signature, or Oscar Csaki's?

A. That is my signature.

Q. Your signature, and this is the document you are now talking about, or trying to explain to the jury, War Assets Administration SF 29, the form known as the mail order request for surplus property?

A. Yes, sir.

Q. And this has to do with the three White trucks, or I think it is referred to in the indictment as White trucks; is that correct?

A. That's right.

(Testimony of John Steven Hildebrand.)

Q. Did you also file a similar form for the Chevrolet?

A. Yes, sir, there is another one just like that.

Q. When you filed the form for the Chevrolet—

A. When did I file that?

Q. Yes.

A. That was on the 8th, I believe, of July, if I am not mistaken.

Q. Didn't you have the Chevrolet, or two of them, for quite some time?

A. No, sir. They were offered on that day, I am pretty sure. [50]

Q. Didn't you offer them to other people before you ever knew or ever saw De Bon?

Mr. Bonsall: That is objected to as irrelevant.

The Court: Overruled.

A. I don't recall, sir.

Q. (By Mr. Tramutolo): Would you say you didn't?

A. I don't recall.

Q. Do you know a man by the name of Mr. Murphy, in Oakland?

A. I have heard of Mr. Murphy. I have seen him with Mr. De Bon.

Q. Did you ever offer one or two of these Chevrolets, these trucks, and tell Mr. Murphy you had the trucks in your possession, before you ever talked to Mr. De Bon?

A. Did I tell him?

Q. Yes.

A. Not that I recall, sir.

Q. Would you say that you didn't?

A. I don't recall, sir.

(Testimony of John Steven Hildebrand.)

Q. Would you say that you did not have these trucks and told other people that you had them for more than two months before you ever saw De Bon?

A. I never had any trucks at all, I mean of these Chevrolet trucks.

Q. Didn't you put in an application for one, yourself?

A. Yes, that is right.

Q. And you had that for some time, didn't you?

A. No, I didn't. [51]

Q. When did you acquire that truck?

A. I believe that was on the same day that I acquired the Chevrolet truck, if I am not mistaken. I don't recall exact dates.

Q. Let me ask you again, Mr. Hildebrand, didn't you offer one or two Chevrolet trucks to other people than to Mr. De Bon?

A. No, not that I recall.

Q. Well, now, you add a qualifying word, not that you recall. Would you say that you didn't or that you did?

A. I didn't.

Q. You are positive of that?

A. I am pretty sure, yes, sir.

Q. Are you sure of it?

A. No, I didn't offer it to anyone that I recall.

Q. Then your answer is that you didn't offer it to anyone; that is your answer?

A. That's right.

Q. Have you discussed this case with anybody, Mr. Hildebrand?

A. Not except Oscar, that's all.

Q. You have talked with Oscar about your testimony in this case?

A. No, not exactly, no.

(Testimony of John Steven Hildebrand.)

Q. What was your conversation with Oscar?

A. Well, just about the particulars of the case, that was all.

Q. Well, you went over the facts of this case, didn't you, with [52] him?

A. Well, it is natural. I see the man every day.

Q. That's all I want. You did talk to him and discuss what you were going to testify, and both exchanged your views?

A. No, we didn't. That was something we were going to be truthful about, this whole thing. We wouldn't come right out and say, "You are going to do this and I am going to do that." I want to wipe this thing clean.

Q. There is nothing wrong about it. I am asking if you talked with Mr. Csaki.

A. Yes, I did.

Q. Didn't you discuss the nature of your testimony with him?

A. "The nature of your testimony" takes in a big scope.

Q. I don't want to argue with you. You just answer the questions. If the Government's representative thinks it is not proper he will protect you in that matter. Did you discuss your testimony in this case with Mr. Csaki?

A. Well, to the effect that I was going to tell the truth, yes.

Q. Well, you discussed what your testimony was going to be. I am not saying whether it is the truth, or not. That is for the jury to determine.

(Testimony of John Steven Hildebrand.)

A. Yes, sure, discussed it with him.

Q. Did you discuss your testimony with anyone else? Didn't you discuss it with your lawyer?

A. Yes. [53]

Q. Of course you did. That is natural. Did you discuss it with Mr. Bonsall? A. Yes.

Q. Did you discuss it with Mr. Kennedy?

A. That's right.

Q. Anybody else?

A. No, that's about all I can recall.

Q. Did you discuss it with Mr. Dillon, another member of the FBI, Federal Bureau of Investigation?

A. Dillon? I think there was a Mr. Williams that came over to my station with Mr. Kennedy, if I am not mistaken.

Q. Did you discuss it with Mr. Williams, also?

A. I did not discuss my testimony with Mr. Williams, at all. He was just there present with Mr. Kennedy. Whether I was supposed to discuss with him or not I couldn't say.

Q. But he was present when you were discussing your testimony, isn't that correct?

A. When Mr. Kennedy was giving me my questions, he was there, yes, but it wasn't my testimony.

Mr. Tramutolo: I am going to ask your Honor to admonish him to answer the questions. He is trying to get into an argumentative state. I want to avoid that.

The Court: All right.

(Testimony of John Steven Hildebrand.)

Q. (By Mr. Tramutolo): All I want you to tell the court and jury is what your conversation was, to the best of your recollection. [54] I haven't the right to determine whether it is truthful or untruthful. They determine that. Do you know of anyone else that you discussed this case with outside of the gentlemen I have enumerated? I never took them into confidence on anything.

Q. You have discussed it with your family, your wife?
A. My wife knows it, sure.

Q. Those are all people. Did you discuss it with Mr. De Bon, the defendant in this case?

A. Yes, I believe I did, when he came to my station.

Q. Did your testimony that you discussed with any of the people in the case vary from what it has been here in this trial?
A. No, it did not.

Q. You told them all the same thing?

A. That's right.

Q. Just what you testified before this court and jury?

A. I am pretty sure, yes, sir; to the best of my recollection.

Q. What disposal did you make of the \$23,000 worth of property that you bought from War Assets?

Mr. Bonsall: I object to that as immaterial. It is his own property. The property in issue here is that of Csaki.

The Court: I will allow it.

The Witness: Is the question still——

(Testimony of John Steven Hildebrand.)

Q. (By Mr. Tramutolo): Yes, what disposition did you make of it?

A. Of the \$23,000? [55]

Q. Well, approximately, what you got; you exercised that much credit or that much right to buy. What did you do with the property?

A. It went to Mr. Tom P. Mee.

Q. The man you were working for?

A. That was before we were called to War Assets about our condition that prevailed.

Q. When you exercised the right to buy property as a veteran you resold it to Mr. Mee, is that correct? A. Well——

The Court: Mr. Hildebrand, if you do not understand the question, indicate to counsel or the court. Read the question.

(The reporter read the last question.)

A. I didn't resell it to Mr. Mee. I exercised my own priority on our behalf, because I was paid a salary plus a third commission.

Q. Well, let me follow you. You put in an application as a veteran to get certain property from War Assets? A. Yes. [56]

Q. You put in an application because as a veteran you are entitled to certain property that you applied for? A. That's right.

Q. And you at that time were working for Mr. Mee in Bakersfield? A. Yes.

Q. You had left War Assets? A. Yes.

(Testimony of John Steven Hildebrand.)

Q. And you came up here from time to time to buy things that Mr. Mee could in turn dispose of, is that correct?

A. Through dealership channel, yes.

Q. In other words, you had made the application and you did get the property and the property would be turned over by Mr. Mee and Mr. Mee would pay you a commission on the sale of the property?

A. Yes.

Q. And that was to the extent of \$23,000?

A. No, I couldn't get \$23,000. There was only a few thousand dollars I had used on my property.

Q. I am trying to ask you if \$23,000 worth of property or credit that you exercised, I am asking you what you did with that property after you acquired it? Do I make myself understood to you, Mr. Hildebrand?

A. No, you are referring to \$23,000 credit I had? I didn't have that. [57]

Q. You had credit up to \$25,000 to start with?

A. Yes, to start with.

Q. And I understood you to say the reason you couldn't apply for the trucks in this case is that you had exercised all but \$2,000 or thereabouts?

A. That's right, I applied for certain things and we were called to War Assets about all this mixup and they told us that we had to do this and that.

Q. In other words, told you that you had been operating wrongly and you had no right to dispose of that?

(Testimony of John Steven Hildebrand.)

A. No, they didn't tell us that. If it was disposed of, they could do nothing about that. They gave us the necessary papers. It wasn't our fault they made a mistake.

Q. I see. But you did get about \$23,000 worth of property from War Assets?

A. No, I did not.

Q. How much did you get?

A. I could enumerate it.

Q. No, don't enumerate it; just approximate an amount.

A. It was approximately about \$2,000 is what I got on property until we were told not to operate any more under the condition.

Q. Well, Mr. Hildebrand, I thought you testified that all you had left on your right to purchase was about \$2,000 at the time that these trucks were acquired through Mr. Csaki. Am I mistaken as to that? [58]

A. My partner, Mr. Mee, I should say, had already acquired on his own priorities certain property:

Q. (By the Court): Mee was a veteran?

A. Yes, Mee was a veteran.

The Court: Counsel, there is a distinction that is quite evident: Mee was a veteran.

Mr. Bonsall: Yes, and in business for himself.

Q. (By Mr. Tramutolo): You and Mr. Mee were together? A. Yes.

Q. Were you partners or just working for him?

A. We called it a partnership.

(Testimony of John Steven Hildebrand.)

Q. Let me get back again to this: Each veteran had a right to purchase \$25,000 worth of surplus material. A. Yes.

Q. You had that right as a veteran; Mr. Mee has that right as a veteran; Mr. Csaki had that right as a veteran. Now, the \$25,000 credit that you had the right to purchase, how much of that \$25,000 did you exercise? A. \$2,000 of it.

Q. Only \$2,000? A. That's right.

Q. And you had \$23,000? A. Left.

Q. I had it the other way around and I am mistaken as to that and I apologize. Now, the \$2000 you purchased, what did you [59] do with that material?

A. Mr. Mee needed a laundry for his ranch. He has a 36,000-acre ranch.

Q. Well, not because of it, but who did you dispose of it to?

A. He wanted a Quonset hut which was about 300, and a laundry which was about 250 and this one truck I got which was about 1200. That is about 17 or 18, and I bought some canvas, a tarpaulin, that is all.

Q. You know, prior to this form, Government Exhibit 14, what was done with the ambulance and the panel? A. Ambulance and the panel?

Q. Yes, on Government Exhibit 14 which you filled out.

A. I don't see no panel on here, where I sold the panel.

(Testimony of John Steven Hildebrand.)

Q. What was done with the ambulance?

A. It was sold to another fellow in Oakland.

Q. Will you read that? I can't read that.

A. "One-half ton ambulance."

Q. What is after ambulance?

A. "Or panel."

Q. What does that "panel" mean?

A. It is a panel side truck.

Q. Is it an ambulance with a panel side?

A. An ambulance could be referred to in this case as a panel for delivery purposes.

Q. Now, there were two requisitions: there is "ambulance." [60] What is that word—"or"?

A. "Or."

Q. "Panel delivery one-half, three-quarter or one ton." A. Yes.

Q. Those are two orders on one line, is that correct: One is for ambulance and one is for a panel truck? A. Yes.

Q. Is that one and the same?

A. That is one and the same.

Q. You are referring to the ambulance now, since it is one and the same thing. A. Yes.

Q. All right. That was not disposed of to Mr. De Bon, was it? A. No, it was not.

Q. Now the jeep, one-quarter ton, who was that disposed of to? A. To a fellow in Oakland.

Q. It was not disposed of to Mr. DeBon, was it?

A. No, the only items were——

Q. The trailers, one-quarter—what is that? It is in your handwriting.

(Testimony of John Steven Hildebrand.)

A. "One-half or three-quarter ton trailer."

Q. That was not sold to Mr. De Bon, was it?

A. No.

Q. "A pickup truck." A. No. [61]

Q. "A dump truck."

A. No—the van White trucks.

Q. Three van White trucks were disposed of to Mr. De Bon? A. That's right.

Q. The ambulance was disposed of to somebody else and not to Mr. De Bon?

A. Yes. May I say something here?

Q. Yes.

A. On, I believe, these two dump trucks one-half or two and a half, or three to ten ton, that priority was used for the Chevrolet truck. The question, one-half to two and a half to three to ten ton, as long as you had a priority that stated one-half and so forth on it.

Q. I see. Did you handle all of these transactions with these other people the same way you handled the transaction with Mr. De Bon?

Mr. Bonsall: I object to that, if the Court please, as incompetent, irrelevant and immaterial.

The Court: I sustain the objection.

Mr. Tramutolo: That's all.

Redirect Examination

By Mr. Bonsall:

I have one or two questions I would like to ask, your Honor.

Q. Mr. Hildebrand, this man Mee—what is his first name? A. Tom P. Mee. [62]

(Testimony of John Steven Hildebrand.)

Q. Was he in business?

A. He has his father who was in business and he was the managing director of California Land and Cattle.

Q. Where was his place of business?

A. His place of business was in Los Angeles, the Union Stockyards, I believe, in Los Angeles and the warehouse and yard that Mee had at Bakersfield was the place we were using for our place of business. He claimed he had registered the business with the County of Bakersfield, I mean the City of Bakersfield, and had all necessary papers all arranged at Bakersfield for this business.

Q. Did that business have a name?

A. Yes, sir.

Q. What was the name of that business?

A. California Farm Construction and Equipment Company.

Q. What kind of merchandise did they deal in?

A. We *dealed* in motors and things for the farm that farmers could use, like stationary engines for pumping, and so forth, that we could get through dealers' channels.

Q. Were you interested in that business, and if so, in what way?

A. I was paid salary and commission and expenses.

Q. How long had the business been in operation? When did it start?

A. It started in, I believe, it was June.

(Testimony of John Steven Hildebrand.)

Q. June of what year? [63] A. 1946.

Q. How long did it continue in business? Is it in business yet?

A. It continued until around the first of September.

Q. Was this a good business at the time these priorities were exercised?

A. No, sir, it was not for the simple reason that War Assets was too hard to deal with. Every time you get something from War Assets they would make it a little tougher to get this or that, or they would say things were not available back East. They just kept tying up your money and you wouldn't get anything out of it.

Q. Just one more question: In your dealings with the Mee Company, were you certified to the War Assets Administration as what is known as a veteran dealer? A. Yes, we were.

Q. In these transactions with Csaki, was Csaki in business? A. No, sir.

Q. Is, also,—was a veteran dealer's—

Mr. Tramutolo: Just a moment. I object to the question, if your Honor please, as asking for a conclusion of the witness and an opinion. Whether or not he is or is not a dealer would be determined by their rules and regulations. I ask the question be stricken.

Q. (By the Court): Was he registered, to your knowledge, referring to Mr. Csaki? [64]

A. As a dealer, Oscar Csaki?

(Testimony of John Steven Hildebrand.)

Q. Yes.

The Witness: No, he was not.

Q. (By Mr. Bonsall): In filling in this Form 66, Government Exhibit 14 in evidence, what business did you state Csaki was in? You may take this to refresh your recollection.

Mr. Tramutolo: I submit, your Honor, that the document itself shows what representation was made.

The Court: He said he made it up and it was false. You might read the first part of the document.

Mr. Bonsall: Yes.

“Description of enterprise: Pickup delivery of scrap iron to different disposal yards. Pickup of mattresses and pillows from commercial ships for disinfecting purposes—handling of all types waste materials and products claimed junk or unserviceable.”

Q. Was Csaki in that business at the time you filled that in? A. No, sir.

Q. Had he ever been in that business for himself? A. No, sir.

Q. When was it you said you first met Mr. De Bon? I want to clear up something here.

Mr. Tramutolo: I submit the testimony is already in. He said the latter part of June of 1946.

The Court: I will allow it. [65]

Mr. Bonsall: I will withdraw that question, your Honor. Was the date you first met Mr. De Bon the same date as that on which you filled in this—

(Testimony of John Steven Hildebrand.)

Mr. Tramutolo: Just a moment, I object to that on the ground, if your Honor please, it is not proper redirect examination.

Mr. Bonsall: I am recalling him as a witness, so far as that is concerned.

The Court: It is not proper redirect examination.

Mr. Bonsall: If the Court please, I am recalling him as my witness.

The Court: Well, of course, you may recall him as your own witness, but I think the question has been already covered. I will allow it.

Mr. Bonsall: Will you read the question as far as I got?

(Record read.)

Q. (By Mr. Bonsall, Continuing): —from War Assets Administration, and referring to Government Exhibit 5 in evidence, and requisitions for the three White trucks or the requests for three White trucks, was it the same date?

Mr. Tramutolo: I object to the question on the ground that it is leading and suggestive, it is not cross-examination of anything that he has testified to, or proper redirect examination. The testimony is already in. I think, respectfully, that the prosecution, Mr. Bonsall, is trying to fix a different [66] date than he has already testified to and I make the objection on that ground that the testimony is already in.

The Court: I sustain the objection.

Mr. Bonsall: No further questions.

(Testimony of John Steven Hildebrand.)

Recross-Examination

By Mr. Tramutolo:

Q. Just this one final question, Mr. Hildebrand: Did I understand you to say in response to a question His Honor asked you, that Mr. Csaki was not listed as a dealer with War Assets?

A. He was not; he was a veteran.

Q. He was a veteran? A. Yes.

Q. Were you listed as a dealer? A. Yes.

Q. And are you still so listed?

A. I don't believe so.

Q. When were you taken off, do you know?

Mr. Bonsall: That would be immaterial.

Mr. Tramutolo: All right.

Q. You were a dealer at the time you met Mr. De Bon, is that correct? A. Yes.

Mr. Tramutolo: That is all.

Mr. Bonsall: That is all.

Q. (By the Court): Mr. Hildebrand, one question. [67] A. Yes.

Q. When you informed Mr. De Bon, as you testified, that you had given to Csaki \$125, did you tell him the reason?

A. I don't recall whether I did or not.

Q. Was there any discussion about the \$125.

A. I may have had a discussion and said that if I used his priority he should have something.

The Court: I have no further questions.

OSCAR CSAKI

called as a witness in behalf of the Government,
sworn.

The Clerk: State your name to the Court and jury.

A. Oscar Csaki.

Direct Examination

By Mr. Bonsall:

Q. Where do you live, Mr. Csaki?

A. 75 Rotteck Street, San Francisco.

Q. Did you ever serve in the Second World War? A. Yes.

Q. Were you honorably discharged?

A. Yes.

Q. Where are you employed at the present time?

A. The Emporium.

Q. How long have you been employed by The Emporium?

A. About ten years, including the five years in service.

Q. With the exception of the time you were in the army, were you in the employ of anybody else?

A. No.

Q. During that time were you ever in business for yourself? A. No.

Q. During what period of time were you in the army?

A. January 28, 1941, until October 26, 1945.

Q. Do you know Mr. Hildebrand? A. Yes.

Q. Do you know Mr. De Bon?

A. I met Mr. De Bon.

(Testimony of Oscar Csaki.)

Q. That is the gentleman sitting in back of Mr. Tramutolo, is that correct? A. Yes.

Mr. Bonsall: Is that so stipulated, counsel, that he is referring to the defendant?

Mr. Tramutolo: Yes.

Q. (By Mr. Bonsall): Did you ever make application to the War Assets Administration for a priority to purchase any surplus properties—either the War Assets Corporation or the War Assets Administration? A. Yes, I did.

Q. When was the first time you made such an application—the very first time?

A. December of 1945.

Q. Now, I show you Government Exhibit 13 purporting to be a veteran's application for the purchase of surplus property and [69] property purporting to be signed by Oscar Csaki, and I ask you if you filled in that form and signed the same.

A. Yes.

Q. Were you interviewed by the verifier?

A. Yes.

Q. Were priority certificates issued to you for the property mentioned in this Government Exhibit 13? A. I received that.

Q. Now, did you receive a single item of the property called for in this application?

A. No.

Q. At any time? A. No.

Q. Did you at any time later make application for any surplus property to the War Assets Administration or the War Assets Corporation?

A. Yes.

(Testimony of Oscar Csaki.)

Q. When was that?

A. That was in March.

Q. March of 1946? A. March of 1946.

Q. Now, I show you this Government Exhibit No. 14 in evidence purporting to be the application of Oscar Csaki for certain property, being veteran's application for surplus property, and I ask you if that is your signature on the back of it. [70]

A. Yes.

Q. Was this form entirely filled in by you?

A. Parts 1, 2, 3, 4 and 5 were.

Q. I want to read those parts again.

A. Yes.

Mr. Bonsall (Reading): "Part 1: Applicant—Oscar Nmi Csaki. Mailing address—75 Rotteck Street. Telephone number—EL-2460, San Francisco, 12, California."

Mr. Tramutolo: Stipulated that EL or ELK means Elkridge?

Mr. Bonsall: We can stipulate on that. We won't worry about that. You have been very good on stipulations, counsel.

Mr. Tramutolo: Anything you want I will give you.

Mr. Bonsall. Another application has been filled in on this form SWPC 66:

"Indicate place and date of filing—1355 Market Street, December, 1945. Trade name of enterprise—Csakidson Salvage Company. Address of enterprise—75 Rotteck Street. San Francisco. California."

(Testimony of Oscar Csaki.)

Is that all that you filled in on that form?

A. And my signature.

Q. Do you happen to know who filled in the rest of this form? A. No, I don't.

Q. Did you ever furnish the information to anyone for the description of the property set forth in this form? A. No, I never—— [71]

Q. Did you furnish the information in No. 9 of this form that you were to be taken in as a partner in your father's business at that time, at the time the form was filled in?

A. Form No. 9?

Q. Yes. A. May I see it please?

Q. Yes. A. No.

Q. Did you have a conversation with Mr. Hildebrand before this form was filled in? A. Yes.

Q. When did you have that conversation?

A. I believe in March.

Q. March of 1946? A. March of 1946.

Q. Was it several days or a month or early in March that you had this conversation?

A. It was early in March.

Q. What conversation did you have with him at that time—or, first, who was present?

A. I went over to Hildebrand's house——

Q. First, who was present at the conversation?

A. Hildebrand and I.

Q. Where was the conversation?

A. In Hildebrand's house. [72]

Q. And the date, as near as you can fix it?

A. The first week in March.

(Testimony of Oscar Csaki.)

Q. What conversation did you have with Mr. Hildebrand at that time?

Mr. Tramutolo: Just a moment, before that is answered, if your Honor please. I object to any such testimony on the ground that any testimony he might give would only affect this witness and Mr. Hildebrand and would not be binding on the defendant De Bon and is therefore immaterial and also incompetent.

Mr. Bonsall: Unless the Court feels the conspiracy has been established.

The Court: I think there is sufficient proof of the corpus delicti on that. I will allow it.

Mr. Tramutolo: As I understand, the Circuit Court for this Circuit has laid down the rule that it is no longer required that exceptions be taken?

The Court: That is correct.

Mr. Bonsall: Will you read the question, please?

(Question read.)

Q. (By Mr. Bonsall): Tell us what Mr. Hildebrand said and what you said, as near as you can remember.

A. Hildebrand asked me if I would fill out an application for some ambulances and jeeps, and since I had no use for them, although I wanted a truck for my father's business, I said to Hildebrand that I never cared for any. He said, "Go ahead, fill out the application. You might need one." I said, "I don't need that and you will probably get in trouble." But I felt he knew what he was doing.

(Testimony of Oscar Csaki.)

He said it was all legal and he says, "Will you fill out the application for me?" So we stopped right there. A few days later he asked me to come down to his office and fill in the application, so the following morning I went to have lunch at eleven o'clock and I went down there at 11:00 o'clock.

Q. What address was that where you went?

A. I believe it was 1540 Market Street. I went over to Johnny's office.

Q. (By the Court): Now, who is Johnny?

A. Hildebrand's office. And he gave me this form and he asked me to fill it out. Well, I filled out the first five parts and I can't remember exactly what type of merchandise was in there. I was in a hurry so I filled out the first five parts and he took me over to the certifier and I waited in line and the certifier asked me if this was the merchandise I wanted and I said yes, and I believe he stamped it and I went back and saw Hildebrand and he gave me some pink slips—

Q. (By Mr. Bonsall): Who gave you pink slips?

A. Hildebrand. He received them from the girl at the desk there.

Q. Yes.

A. As it was getting late, I asked Hildebrand if he would fill [74] out the rest for me because I had to go back to work. So I handed him the pink slips and he said he would take care of it and I left him and went back to The Emporium.

(Testimony of Oscar Csaki.)

Q. Now, all of these articles called for in this Government Exhibit 14 in evidence, this jeep one-quarter ton, was that acquired on your priority, to your knowledge? A. Yes.

Q. Do you know anything about these trailers, the quarter ton trailers? Were they acquired on your priorities?

A. I learned they were purchased later on.

Q. Do you know about this pickup truck being purchased on your priority?

A. Learned that later on.

Q. And these dump trucks?

A. Well, I know some ambulances were bought.

Q. When did you hear about the purchase of these different properties—what date?

A. I couldn't say the date. I would say later on in March—perhaps four or five days after I filled out the form, or later.

Q. How did you hear about it?

A. Hildebrand told me he had purchased some ambulances.

Q. I see. When was the next time you saw Hildebrand after this time you signed this Exhibit No. 14 on March 23—when was the next time you saw him?

A. Well, Hildebrand and I live close together and we usually [75] visit and I saw him quite often after that.

Q. Did you have any talk with him about exercising veteran's priority for the purchase of property?

(Testimony of Oscar Csaki.)

A. In May, I believe, in the early part of May, Hildebrand wanted a jeep and I advised him one night over at his house, he asked me if I would get the jeep for him. He wanted it for his own personal use for hunting and such, and as a personal favor I got this jeep for him.

Q. Did you have any other conversation with him after the purchase of the jeep, regarding the purchase of War Assets property?

A. In July.

Q. What time in July?

A. Oh, I would say the first part of July.

Q. Where did you have that conversation?

A. I can't remember whether it was over to his house or over the phone.

Q. When was it? A. When?

Q. Yes. A. July.

Q. What time in July? Can you fix the date a little better?

The Court: We will take a recess at this time, ladies and gentlemen of the jury. Please bear in mind the admonition of the Court not to discuss this case among yourselves, nor permit any person to converse with you on any subject connected with the trial, nor are you to form or express any opinion on the case until it is finally submitted to you.

(Recess.) [76]

Mr. Bonsall: Stipulated the jury is all present, your Honor.

Mr. Tramutolo: Likewise, your Honor.

(Testimony of Oscar Csaki.)

Q. (By Mr. Bonsall): Now, Mr. Csaki, calling your attention to the month of July, 1946, did you have a conversation with Mr. Hildebrand during that month? A. During July?

Q. Yes. A. Yes, I did.

Q. That time in July did you have that conversation with him?

A. I would say the first part of July, perhaps the first week in July.

Q. And where did you have it?

A. It was either at his house or over the phone.

Q. And what conversation did you have with him?

A. He asked me if I would put an application in for a Chevrolet truck, and I asked him what he wanted a Chevrolet truck for, so I had no use for it, I couldn't use it, never wanted it. He said he wanted to get it for a fellow named De Bon, a dealer in Eureka, California. I told him, "Well, I wasn't supposed to take these trucks and give them to the dealer, because they be sold, and I could get in a lot of trouble, never wanted to." Johnny said everything was legal——

Mr. Tramutolo: Just a moment. May I ask, your Honor, when he refers to "Johnny," if he means John Hildebrand. [77]

The Court: John Hildebrand: Refer to the last name.

The Witness: All right, Judge.

So I don't remember signing for it, but I must have gone down, because my signature appears on

(Testimony of Oscar Csaki.)

the proper documents to purchase the Chevrolet truck. Four or five days later I received either \$15 or \$25 for the purchase of the truck.

Q. (By Mr. Bonsall): From whom?

A. From Hildebrand.

Q. Where?

A. I believe over at his house.

Q. Do you recall whether it was in cash or check or how? A. It was cash.

Q. Do you recall what kind of cash it was?

A. It was bills, in bills.

Q. When was the next time—oh, yes, did Hildebrand tell you where the money came from at that time?

A. Well, he said he would give me that money as he had sold the truck to De Bon, or given the priorities to De Bon.

Q. When did you next have a conversation with Hildebrand?

A. I believe a few days later.

Q. Where was that?

A. I believe Hildebrand phoned me and asked me if I would come down and sign an application for one White truck.

Q. Do you recall when that was—a few days later, you said?

A. That was a few days later. [78]

Q. And where?

A. I believe he called me up. And I told him, "Well, I don't want a White truck, I can't use it, and as I say, we will get in a lot of trouble."

(Testimony of Oscar Csaki.)

So he told me he wanted me to get this truck for De Bon. So a few days later I received a notification from War Assets stating that I had three trucks, three White trucks. I called Hildebrand, told him, "What goes on here? We got three White trucks."

So he said the Government had awarded me three White trucks. So a couple of days later Hildebrand phoned me and asked me if I would come down to War Assets, which is on Van Ness Avenue—I don't know the address—so I said, "All right."

So I was supposed to meet him either 9:30 or 10:00 in the morning. I can't remember if Hildebrand brought me down or if I met him down there. Anyway, I got down there, met Hildebrand, and De Bon in front of War Assets on Mar—on Van Ness Avenue—

Mr. Tramutolo: I stipulate that is 30 Van Ness Avenue, your Honor, so there will be no dispute about the place.

Mr. Bonsall: Thanks for the additional stipulation.

Q. Go ahead.

A. I was handed three cashier's checks. Hildebrand told me to take the checks and see a certain party in War Assets, and she would give me the necessary papers to fill out.

Hildebrand and De Bon waited downstairs. I went upstairs, [79] saw the party, filled out the bills of sale, I signed them, walked over to the cashier's cage, presented my papers, and three

(Testimony of Oscar Csaki.)

cashier's checks. She stamped them. I walked downstairs, gave the bill of sales to De Bon. De Bon asked me if I would have these notarized and turn the bill of sales over to him. I said "All right." We walked over to the automotive building, which is a short ways from War Assets, to have these notarized. De Bon and I walked in, but the notary public was out, but there was a girl behind the desk, a stenographer. She filled the pink forms out necessary for the transfer. Naturally, there was no notary public there, so we couldn't have them notarized, so De Bon and I walked out, met Hildebrand, and either De Bon or Hildebrand said there was a notary public in the City Hall, in the basement, so we walked up to the City Hall. Hildebrand and De Bon stayed outside. I went downstairs, but the notary public was out to lunch, so I learned there was one on the third floor, walked up to the third floor, presented the papers, they were notarized, I came downstairs, met De Bon and Hildebrand, turned the papers over to them. As it was getting late they brought me back to the store, and I went back to work.

Mr. Bonsall: I have here three photostatic copies of checks drawn by the Bank of America, payable to Ed De Bon—you saw that before?

Mr. Tramutolo: No, I didn't see them. I stipulate that these are photostatic copies of the originals, your Honor, no [80] objection to them.

Mr. Bonsall: And checks that were turned over to him by Mr. De Bon?

Mr. Tramutolo: Yes.

(Testimony of Oscar Csaki.)

Mr. Bonsall: I ask that they be marked in evidence as Government's Exhibits next in order.

The Court: So ordered.

Mr. Bonsall: This is dated June 24, 1946——

Mr. Tramutolo: June or July, Mr. Bonsall?

Mr. Bonsall: July 24, 1946. It is No. 2818880, drawn by the Bank of America, being cashier's check payable to Ed De Bon in the sum of \$3629, and bearing the endorsement, "Pay to the Order of the Treasury of the United States, Ed De Bon." I ask that be marked in evidence.

The Court: And the amount?

Mr. Bonsall: The amount was given, your Honor.

The Clerk: The amount is \$3629 and no cents. The exhibit is Government's Exhibit 16 in evidence.

The Court: So ordered.

(The document was marked U. S. Exhibit 16 in evidence.)

Mr. Bonsall: The next is a photostatic copy of a cashier's check 2818882, dated July 24, 1946, being cashier's check of the Bank of America, payable to Ed De Bon, in the amount of \$36.29, bearing or purporting to bear the endorsement, "Pay to the Order of the Treasury of the United States, Ed De Bon." [81]

Mr. Tramutolo: Did you say \$36.29? Isn't it \$3629?

Mr. Bonsall: \$3629. I am asking that this check be marked in evidence as Government's Exhibit next in order.

(Testimony of Oscar Csaki.)

I have here check 2818881, being a photostatic copy of a check dated July 24, 1946, payable to the order of Ed De Bon, a cashier's check in the sum of \$3629, and purporting to bear the endorsement, "Pay to the Order of the Treasury of the United States, Ed De Bon." I ask that that be marked Government's Exhibit in evidence next in order.

The Court: So ordered.

Mr. Tramutolo: With reference to the purported partner, your Honor, I want to state there is no doubt that is the signature of Mr. De Bon. They were made out to him and they are actual endorsements.

The Clerk: The last two are Government's Exhibits 17 and 18, respectively.

(The documents were marked, respectively, U. S. Exhibits 17 and 18 in evidence.)

Q. (By Mr. Bonsall): Now, Mr. Csaki, I show you this form, being mail order request for surplus property dated July 8, 1946, and purporting to be signed by Oscar Cockey, "J. D. H.," and ask you if that is your signature on there. A. No.

Q. When was the first time you saw that form?

A. In Mr. Kennedy's office. [82]

Q. Had you ever heard of it before you saw it, heard about the transaction before you saw it?

A. Is this for the White truck, here?

Q. It is the Chevrolet, I believe.

A. Well. I did hear about it at the time he called me up and asked me about purchasing the Chevrolet truck.

(Testimony of Oscar Csaki.)

Q. On what date was that?

A. That was in July.

Q. After it had been executed?

A. You mean when I saw this?

Q. You saw that in January, I think.

Mr. Tramutolo: Just a moment. He didn't say January. On that document, there, if you will get the right date, that is very important.

Mr. Bonsall: All right.

Mr. Tramutolo: I suggest, your Honor, that the document, itself, would be the best evidence, and any interpretation would be an interpretation of the witness or counsel for the Government.

The Court: What is the date of the document?

Mr. Bonsall: July 8th.

Mr. Tramutolo: You said January. That was what I was objecting to.

Mr. Bonsall: My question was when he first saw it, your Honor, which is vastly different from the date on the document. [83]

Mr. Tramutolo: Oh.

Q. (By Mr. Bonsall): When did you first see this document?

A. In Mr. Kennedy's office. I believe it was around perhaps February.

Q. Of what year? A. Of '47.

Q. Yes, and you had heard about this transaction before you saw the document? A. Yes.

Q. When did you first hear about this transaction? A. In July '46.

(Testimony of Oscar Csaki.)

Q. July, 1946, was it before or after the date of the document? A. When I saw that?

Q. When you heard about this transaction.

A. It was before I saw that document.

Q. Before you saw the document, but had the document been issued?

A. Well, I don't quite understand.

Q. Well, you had a talk with Mr. Hildebrand about this transaction, didn't you?

A. That's right.

Q. And what did he tell you?

A. He wanted to get a Chevrolet truck.

Q. Well, did he tell you what he had done?

A. No.

Q. Did he tell you he had filled a form in—

Mr. Tramutolo: Just a moment, just a moment, Mr. Bonsall. I don't want to make any objection, but don't lead the witness. That is the objection I make, your Honor.

Mr. Bonsall: Of course, these are not exactly friendly witnesses.

The Court: The objection is sustained, and the jury is admonished to disregard the remark of prosecution counsel that the witness is not friendly.

Q. (By Mr. Bonsall): Did you have a conversation with Mr. Hildebrand regarding his having applied for a Chevrolet for Mr. De Bon?

A. Yes.

Mr. Tramutolo: Just a moment, if your Honor please—it is all right. It has been answered.

The Court: You may answer that.

(Testimony of Oscar Csaki.)

Mr. Tramutolo: The objection, your Honor, I wanted to make is that these questions are leading. I don't have any objection to all of the conversation. I don't care what the conversation is. All I am objecting to is that the question is leading.

The Court: I will sustain an objection to any leading question.

The Witness: Do I answer that?

Q. (By Mr. Bonsall): Yes.

A. When Hildebrand called me up about the Chevrolet truck, before that I never saw any papers, or after that I never saw [85] any papers, until Mr. Kennedy showed them to me.

Q. I see. Now, I show you a form dated 7/8/46, Mail Order Request for certain surplus property, Government's Exhibit in evidence No. 5, and purporting to be signed by Oscar Csaki, and I will ask you if you signed that. A. No.

Q. When did you first see this document?

A. In Mr. Kennedy's office.

Q. At what time? A. In February '47.

Q. Now, I show you Government's Exhibit No. 11, entitled, "Veterans' Trucks and Trailers For Sale June 25 and 26," and ask you if you have ever at any time seen that brochure.

A. I believe I have.

Q. Or a similar one?

A. A similar one to it.

Q. Did you ever select any articles from this brochure at any time? A. No.

(Testimony of Oscar Csaki.)

Q. Now, I show you this brochure dated—or Government's Exhibit No. 12 in evidence, entitled, "Northern California and Nevada Trucks Over 2½ Tons and Truck Tractors For Sale," and ask you if you ever saw that or a similar one.

A. I have seen a similar one.

Q. Did you order any property from this, yourself? [86] A. No.

Q. I have here "Veterans' Reference Certificate" in the name of Oscar Csaki, purporting to be in the name of Oscar Csaki, dated March 27, 1946, bearing the notification, "Certification For Veteran's Preference March 27, 1946, War Assets Corporation, Description of Property, 3 each Van Trucks, 1½ or 2½ or 3 or 4 ton," and ask you if you ever saw that before. A. No.

Mr. Tramutolo: Mr. Bonsall, what exhibit is that, May I ask, please?

Mr. Bonsall: That is Exhibit No. 6.

Mr. Tramutolo: Government's Exhibit 6?

The Clerk: For identification.

Mr. Bonsall: For identification, all right.

Q. Were you ever paid any money by anyone for your service in connection with securing the 3 White trucks? A. Yes.

Q. When.

A. Oh, I would say approximately four or five days after I bought those trucks.

Q. Where?

A. I believe it was over at Mr. Hildebrand's house.

(Testimony of Oscar Csaki.)

Q. And who was present?

A. Hildebrand and I.

Q. How much did you receive? [87]

A. A hundred and twenty dollars.

Q. What did Hildebrand tell you when he gave you the money, if anything?

A. He just said, "Here is a hundred and twenty dollars for your trucks, for the use of your priorities for the trucks that were sold to De Bon."

Q. Was anything said at any time prior to that by Mr. Hildebrand concerning your being paid for your priorities?

A. He mentioned I might profit by it.

Q. When was that? A. In July.

Mr. Bonsall: That's all—Just a moment—excuse me.

Q. By the way, did you ever see this Chevrolet truck in question yourself? A. No.

Q. Did you inspect it, or these three White trucks? A. No.

Mr. Bonsall: That's all.

Mr. Tramutolo: Is that all?

Mr. Bonsall: That's all.

Cross-Examination

By Mr. Tramutolo:

Q. Mr. Csaki, when did you first realize that you had violated the law?

A. Well, Hildebrand said everything was legal. I knew it wasn't right. Off-hand, I just can't say.

(Testimony of Oscar Csaki.)

Q. Did you realize when you were asked by Mr. Hildebrand to sign any documents or permit him to sign any documents for you that you were violating any law?

A. I realized it was not the right thing to do.

Q. When were you first told you were violating the law? A. When was I told?

Q. Yes.

A. I believe around February '46,—'47.

Q. In other words, long after these transactions had taken place you were acquainted with the fact that you had violated some law?

A. That's right.

Q. Prior to that you didn't believe you had violated any law? A. That's right.

Q. You had a conversation with Mr. Hildebrand and let him sign any documents, believing it was all right, is that correct? A. Yes.

Q. In other words, you testified, as I remember on direct examination, that it was getting late one night and you had some forms for things you had applied for, and you let Mr. Hildebrand go ahead and sign your name.

A. I never leave anybody sign my name.

Q. Didn't you say it was late and you had to leave, and you let him sign some forms, or fill out some forms for you?

A. I never said that. I said afternoon, not night.

Q. But you did tell him to go ahead and sign those forms? A. The pink slips, yes.

(Testimony of Oscar Csaki.)

Q. The pink slips are things upon which you get the authority to get your property?

A. I believe they are. I am not too well acquainted with that.

Q. You know that, don't you?

A. No, I don't.

Q. How do you get the property, unless by the pink slips?

A. To the best of my knowledge, if you want to purchase a truck you put your application in, and more or less the same as an application—in other words, you don't actually get the trucks with that.

Q. Based upon the signing of the pink slip, which is preceded by a form called an application, or introduced here in evidence as Form SWPC 66, you just filled that out, did you not, Mr. Csaki?

A. Yes. [90]

Q. Then, when the material that you have applied for, and I now hand the witness Government Exhibit No. 14, referred to as veteran's application for surplus property, after you file this application, then the pink slip, when the property is available, is the thing that has to be signed?

A. Well, to the best of my knowledge, after I have received my pink slips, then at the same time I fill out a supplemental form.

Q. Isn't the pink slip issued after you fill out the form? You make out the application and then get the pink slip, isn't that right?

A. Yes, but I mean the same day.

(Testimony of Oscar Csaki.)

Q. It could be all the same day?

A. That's right.

Q. Before you make the application—withdraw that question, please. After you file the application for the goods that you want to use, are you notified that the goods that you have applied for are now available?

A. You are notified by War Assets.

Q. War Assets sends you a notification?

A. Yes.

Q. Then, what is the next step after War Assets notified you that the material or property you have asked for is available?

A. To the best of my knowledge, you do down to War Assets, if you wish the merchandise, and they have the necessary papers [91] down there for the merchandise you desire.

Q. Did I correctly understand you that you knew nothing about these forms that I now hand you, Which is Government Exhibit for identification No. 1, and also No. 5, did I understand you to say that you never saw those documents?

A. To the best of my knowledge, I never have.

Q. Until February of 1947?

A. That's right.

Q. That is the first time? A. That's right.

Q. Then how were you able to get a bill of sale for the material or the trucks that you had applied for on those forms, the Chevrolet and the three White trucks?

Mr. Bonsall: I object to that, if the Court please.

(Testimony of Oscar Csaki.)

Mr. Tramutolo: I am entitled to that.

The Court: Objection overruled.

The Witness: That I do not know.

Q. (By Mr. Tramutolo): You received a bill of sale for those goods from War Assets?

A. Yes.

Q. Made out to you? A. Made out to me.

Q. Then you endorsed that bill of sale, did you not, to De Bon? A. That's right.

Q. I now show you Government Exhibit 15, a photostatic copy of [92] a bill of sale. Do you recognize that? That is not the original, Mr. Csaki; that is a photostatic copy of the original.

A. I couldn't say I recognize it, because I received the bills of sale and I brought them right downstairs.

Q. Does your name appear anywhere on that document? A. No.

Q. Is that the form of bill of sale which you were given by the government in order to acquire title to the Chevrolet truck and the three White trucks?

A. I believe it is, but I can't exactly remember.

Q. Will you read the language on there with regard to what it says on the matter of your ownership of that property?

Mr. Bonsall: I think the document speaks for itself, your Honor, and I object to the question.

The Court: Objection overruled.

The Witness: Just what do you want me to read?

(Testimony of Oscar Csaki.)

Mr. Tramutolo: The language that pertains to the ownership of the property to which you are making a bill of sale to De Bon.

A. (Reading) "The said seller hereby warrants that he is the lawful owner of said vehicle; that it is free from all liens and incumbrances except lien in favor of Mercantile Acceptance Corporation, Eureka, California; that he has the right to sell same as aforesaid, and that he will warrant and defend the title of the same against claims and demands of all persons whomsoever [93] except lienholder noted above."

Q. It was those types of bills of sale that you went to the City Hall with and notarized and turned over to Mr. Hildebrand for Mr. De Bon, they being downstairs at the time, when you went upstairs to have them notarized, is that correct?

A. I presume they were.

Q. You knew what you were signing?

A. I knew I was signing a bill of sale.

Q. Then when you said you had no knowledge of the trucks whatsoever until February when Mr. Kennedy showed you the mail form you were mistaken?

Mr. Bonsall: I don't think he said that.

The Witness: I did not say that.

Mr. Tramutolo: All right, I will reframe the question.

Q. Did I understand you to say that you knew nothing about the ordinary procurement of the Chevrolet truck and the three White trucks that

(Testimony of Oscar Csaki.)

were delivered to Mr. De Bon some time in July of 1946 until Mr. Kennedy discussed the matter with you in February of 1947?

A. Do you mean the purchase of the trucks?

Q. Yes.

A. No, I bought the trucks; I bought the three White trucks.

Q. You bought them in July of 1946, is that correct? A. Right.

Q. Then what did you mean to say when you said that you knew [94] nothing about the execution of the mail order for the sale?

A. I was referring to the forms Mr. Bonsall showed me.

Q. You knew about getting title to the property yourself, didn't you? A. That's right.

Q. So the matter of the papers meant nothing to you; you thought you had title at the time that was sold to Mr. De Bon?

A. Will you state that again?

Q. You thought you had a right to apply for the property which was ultimately delivered, to sell it to De Bon?

Mr. Bonsall: I object to that question.

The Court: Objection overruled.

The Witness: Well, as I said, as I stated before, Mr. Hildebrand said it was all legal.

Q. (By Mr. Tramutolo): Well, you had no knowledge at the time you acquired them and transferred them to Mr. De Bon that you were doing anything illegal, is that correct?

A. Yes.

(Testimony of Oscar Csaki.)

Q. You would say the form here, Government Exhibit 14, which Mr. Bonsall read was filled out. Who filled it out? A. I did.

Q. Is that "Mr. Csaki and Son"?

A. Right.

Q. Is that "Csakidon Salvage Company"?

A. That's right. [95]

Q. Were you in the salvage business at the time?

A. No.

Q. Why did you fill it out and so represent to the government that you were in the salvage business?

A. I was told that in order to get those priorities.

Q. By whom?

A. By Hildebrand, to fill it out the same way.

Q. You did this of your own volition, didn't you?

A. Yes.

Q. You filled out your name and you put your initials "MNI" and your first name "Oscar" and your last name "Csaki"? You filled that out?

A. Yes.

Q. And you gave your address and the address where you were going to conduct your enterprise?

A. Yes.

Q. After that was filled out by you and everything else was put in there of the material desired and why you wanted the material, then you are interviewed by someone in War Assets, are you not?

A. I was not interviewed.

Q. Were you screened by what they call a screener? A. I went up to the certifier.

(Testimony of Osear Csaki.)

Q. What did the certifier say to you?

A. That I can't remember. I presume he said, "Is this the [96] merchandise that you wished?"

Q. Did you take an oath when you went to the certifier?

A. I don't think so.

Q. But you did tell him everything on this application was correct and this was what you desired?

A. That's correct.

Q. And he asked you specifically about each item, what you wanted it for and discussed all of the facts?

A. No, he never.

Q. Didn't he?

A. No.

Q. You told him what you were going to do with it?

A. No.

Mr. Bonsall: I object to all this, your Honor.

The Court: Objection overruled.

Q. (By Mr. Tramutolo): Were you going into business at the time Government Exhibit 14 was filled out? Were you and he going into business?

A. No.

Q. You were not going into business?

A. No.

Q. Are you sure of that?

A. That's right.

Q. Do you know who the property on the various items you applied for was sold to by you outside of the trucks? [97]

A. Will you state that again?

Q. Do you know the persons to whom you sold the various items appearing on the application, Gov-

(Testimony of Oscar Csaki.)

ernment Exhibit 14, I believe it is; for example, the jeep, which you say you got from Mr. Hildebrand? A. Yes.

Q. Do you know to whom the trailer, the one-quarter ton truck went?

Mr. Bonsall: I object to that as incompetent, irrelevant and immaterial.

The Court: Sustained.

Q. (By Mr. Tramutolo): What is your connection with The Emporium?

A. I am Assistant Furniture Buyer.

Q. And you have been in that capacity for about ten years, did I understand you to say?

A. No, I have been about two and a half years in that capacity.

Q. But you have been with The Emporium ten years? A. That's right.

Q. And you have been assistant buyer in the furniture department since you have been out of the service?

A. Well, since about four or five months after I was out of the service.

Q. By the way, did you and Mr. Hildebrand ever join in any [98] business enterprise together?

A. No.

Q. Your father is in the salvage business, is he not? A. Yes.

Q. Did you ever have any conversation with regard to, or did you ever discuss this case with anyone, Mr. Csaki? A. Yes.

Q. Or your testimony in this case?

A. Yes.

(Testimony of Oscar Csaki.)

Q. Who did you discuss it with?

A. Hildebrand.

Q. Hildebrand? A. Yes.

Q. Did you discuss it with him on more than one occasion? A. Oh, I believe so.

Q. Several times, did you not?

A. Yes, that's right.

Q. You went into detail as to what the nature of your testimony in this case was going to be with him, did you?

A. Well, I told him I was going to tell the truth.

Q. You told him that several times?

A. That's right.

Q. What did he tell you?

A. "That is what you should do." In fact, I asked that my testimony be shown to Mr. Hildebrand so that he could see it. [99]

Q. In other words, you made out a detailed statement of your testimony?

A. That's right.

Q. To whom? A. Mr. Kennedy.

Q. And Mr. Bonsall?

A. And to Mr. Bonsall.

Q. And you asked him to show that statement to Mr. Hildebrand?

A. No, in February of 1947 I asked Mr. Kennedy if he would show it to him. I don't know whether he did or not.

Q. You asked him to do so? A. Yes.

Q. Did you discuss this case with Mr. Hildebrand since you have been in here in court waiting to be called as a witness? A. Yes.

(Testimony of Oscar Csaki.)

Q. In other words, you have discussed it since you have been out in the corridors? A. Yes.

Q. And the nature of your testimony?

A. Yes, we just said, "How are you coming along?" and things like that—what was going on.

Q. Did you discuss the case with anybody else besides Mr. Kennedy of the FBI, Mr. Hildebrand and Mr. Bonsall?

A. I talked to my lawyer, Mr. Leland.

Q. Anyone else? [100] A. No.

Q. Did you discuss it with your father or members of your family?

A. Yes—when do you mean?

Q. Any time. I am trying to get the persons with whom you discussed it. You have entered a plea in this case, haven't you, Mr. Csaki?

A. Yes.

Q. Have any promises been made to you as to what is going to happen? A. No.

Q. You never discussed that with anyone?

A. How do you mean?

Q. What the likely punishment might be.

A. Yes.

Q. Who did you discuss it with?

A. My lawyer and my folks.

Q. Your lawyer and your folks.

A. Yes.

Q. Have you ever been in any previous trouble, Mr. Csaki? A. No.

(Testimony of Oscar Csaki.)

Q. Did Mr. De Bon ever ask you to do anything in connection with your acquiring of the property you first received and which he ultimately received?

A. Only to turn the White trucks over to him, the bills of [101] sale.

Q. Did he at any time intimate or suggest that you should do anything wrong with any agency of the government? A. No.

Q. And you did not know you were doing anything wrong until Mr. Kennedy talked to you in February, 1947, is that correct? A. Yes.

Mr. Tramutolo: That is all.

The Court: Mr. Bonsall, you may take up your redirect examination at 2:00 o'clock. We will take an adjournment until that time.

Ladies and gentlemen of the jury, please remember the admonition heretofore given you by the court not to discuss this case among yourselves, nor permit any person to converse with you on any subject connected with the trial, nor are you to form or express any opinion on the case until it is finally submitted to you.

(Thereupon an adjournment was taken until 2:00 p.m.) [102]

Afternoon Session, 2:00 o'Clock P.M.

The Court: Stipulated that the jurors are present?

Mr. Bonsall: It is, your Honor. Mr. Csaki was on the stand, I believe.

The Court: He may be recalled.

OSCAR CSAKI

recalled, previously sworn.

The Clerk: The witness on the stand is Oscar Csaki, heretofore sworn.

Redirect Examination

By Mr. Bonsall:

Q. Mr. Csaki, did you ever actually inspect any property of any kind that you purchased on your priorities? A. No.

Q. Did you ever at any time have any expense in connection with those properties?

A. Pardon me?

Q. Did you at any time have any expense in connection with the purchase of articles on your priorities? A. I had no expense.

Q. Did you ever get anything for yourself from the articles that you purchased? A. Yes.

Q. What was the first amount you received?

A. I received either fifteen or twenty-five dollars from the purchase of the Chevrolet truck.

Q. What was that for?

A. For the Chevrolet truck.

Q. All right, did you receive any other money for yourself?

A. I received \$120 for the purchase of the three White trucks.

Q. What was that for?

A. For the purchase of the three White trucks.

Q. On your priorities?

A. On my priorities.

(Testimony of Oscar Csaki.)

Q. By the way, did you ever actually get the physical possession of any property from the War Assets Corporation for yourself, the physical possession of the property?

A. No, I never received any property for myself.

Mr. Bonsall: That's all, your Honor.

Recross-Examination

By Mr. Tramutolo:

Q. Mr. Csaki, who paid for the Chevrolet truck which you had applied for?

A. That I don't know, I don't remember.

Q. But you did know that it was paid for by someone, didn't you?

A. Somebody paid for it.

Q. And you also made a bill of sale of the Chevrolet truck to Mr. De Bon, as you had made in the White trucks?

A. For the Chevrolet truck? [104]

Q. Yes. A. That I don't know.

Q. How did you convey title to Mr. De Bon?

A. I can't remember. I can't remember if I turned the bill of sale over to him at all.

Q. Now, I am correct, am I not, Mr. Csaki, that it is your testimony that you had no knowledge of any wrong-doing until February, 1947, when you talked to Mr. Kennedy, of the Federal Bureau of Investigation?

A. I am sorry. I can't hear you. You will have to talk louder.

Q. Pardon me?

A. You will have to talk louder.

(Testimony of Oscar Csaki.)

Q. Oh, I thought I was talking pretty loud. And I am correct, that your testimony this forenoon was to the effect or specifically that you had no knowledge that anything that you did was wrong until February of this year, when you talked to Mr. Kennedy?

A. That's right.

Q. Have you a dealer's license with the War Assets Administration, or any other branch of the Government?

A. No.

Q. What sort of a license have you, if any?

A. I haven't any.

Q. You merely have a veteran's preference?

A. A veteran's priority.

Q. And the veteran's priority gives you a credit or the right [105] to buy \$25,000 worth of property from the Government?

A. Yes.

Q. And do you know how much of that 25,000 you exercised?

A. The Chevrolet truck and the three White trucks. I don't actually know.

Q. So you still have a balance with War Assets?

A. I presume so. I never knew how much we were allowed.

Q. Well, they deducted the jeep that you bought, didn't they?

A. I don't know. That is something I know nothing of.

Q. What about the ambulance?

A. I don't know anything about that. I mean I know the ambulance were purchased, but how they were bought or anything like that——

(Testimony of Oscar Csaki.)

Q. Did you make a bill of sale for any other property to whoever bought it? A. No.

Q. You never made a bill of sale and don't know who got the money for the sale of that property?

A. Who got the money?

Q. Yes.

A. No, I don't know anything about those transactions.

Q. Didn't it occur to you, with all these transactions, that you were doing something wrong?

A. Well, Hildebrand said it was legal. I put up an argument, but I figured he was in War Assets, and as he said, sometimes there was an over-surplus, where everything was legal, so I [106] took his word for it.

Q. Did you know if he had a dealer's license?

A. Did I know if he did?

Q. Yes.

A. I don't know if he did, or not. I don't think so.

Q. And you say you never discussed with Mr. Hildebrand the joint venture between yourself and himself to go into business, is that correct?

A. That's right.

Q. Well, when you discussed your application with the man that they called the screener, or the one who interviewed you as to your discharge from the Army, that it is honorable, and all that, didn't you discuss with him that you were going into business, either by yourself or with someone?

A. I am sure I never, but I can't recall.

(Testimony of Oscar Csaki.)

Q. You wouldn't say you didn't?

A. That is right.

Q. Am I to assume you did this just as a matter of accommodation to Mr. Hildebrand?

A. Yes.

Q. With no view of making any profit, yourself?

A. That's right.

Q. Or doing anything wrong by yourself, or by or with anyone else? A. That's right. [107]

Mr. Tramutolo: That's all.

Further Redirect Examination

By Mr. Bonsall:

Q. Did you receive any money out of any other transactions other than the two amounts you have mentioned, this \$25 and \$120? A. No.

Q. Not one penny more?

A. That's right.

Q. Not from any transaction?

A. Not from any transaction.

Mr. Bonsall: No further questions, your Honor.

Mr. Tramutolo: That's all, your Honor.

The Court: Is that all?

Mr. Bonsall: At this time I want to introduce some documents that have been marked for identification, in evidence.

The Court: Mr. Witness, sit down a moment. You said you did not have in mind any profit motive in these transactions?

The Witness: That's right.

(Testimony of Oscar Csaki.)

The Court: How do you account for the sum of \$150, \$125 in one transaction and \$25 in another? How do you account for that?

The Witness: I never received \$150.

The Court: \$25 for the first car, and \$125 for the three Whites? [108]

The Witness: No, I received fifteen or twenty-five dollars on the first transaction and \$120 on the other.

The Court: How do you account for those sums?

The Witness: As far as that. I never expected anything. I was doing it as a personal favor for Mr. Hildebrand, and he gave me the money, so I accepted it.

The Court: You knew the source of that money, did you not?

The Witness: Yes.

The Court: You knew it came from Mr. De Bon?

The Witness: Yes.

The Court: That's all.

Mr. Tramutolo: Mr. De Bon didn't give it to you direct, did he, Mr. Csaki?

The Witness: No.

Mr. Tramutolo: All you know as to how it reached you or where Mr. Hildebrand got it was what he told you?

The Witness: That's right.

Mr. Bonsall: How many times did you see Mr. De Bon altogether?

The Witness: I met him the first time at War Assets, on Van Ness.

Mr. Bonsall: On what date?

(Testimony of Oscar Csaki.)

The Witness: I believe that was in July.

Mr. Bonsall: July, 1946, just the one time?

The Witness: That's right. [109]

Mr. Bonsall: No further questions.

The Court: That is all.

Mr. Bonsall: At this time I would like to introduce in evidence Government's Exhibits 2, 3, 4, 6, 7, 8, 9, and 10, which have all been marked for identification. At this time I would like to offer them in evidence. They are all official records.

The Court: They may be received and marked.

Mr. Tramutolo: No objection, your Honor.

The Clerk: They are marked Government's Exhibits 2, 3, 4, 6, 7, 8, 9, and 10, respectively.

(U. S. Exhibits 2, 3, 4, 6, 7, 8, 9 and 10 for Identification were thereupon received in evidence.)

Mr. Bonsall: The Government has no further witnesses at this time.

Mr. Tramutolo: Does the Government rest?

Mr. Bonsall: The Government rests.

Mr. Tramutolo: I would ask that the jury be excused for a moment, as I desire to make a motion.

The Court: Ladies and gentlemen of the jury, you may be excused until called by the bailiff or marshal, during the course of arguments on certain legal matters.

(Thereupon the jury withdrew from the courtroom, and the following proceedings were had:)

Mr. Bonsall: May it please the court, I will also ask [110] that No. 1 for Identification be marked in evidence.

The Court: The jury is absent.

Mr. Tramutolo: I have no objection, your Honor.

The Court: Do you waive any objection on that score?

Mr. Tramutolo: I waive any objection of the jury's presence.

The Court: It may be appropriately marked.

The Clerk: It is marked Government's Exhibit 1.

(U. S. Exhibit 1 For Identification was thereupon received in evidence.)

Mr. Tramutolo: May I proceed, your Honor?

The Court: Yes.

Mr. Tramutolo: If your Honor please, I now make the request for a motion for acquittal on all three counts, based on the very recent testimony, which your Honor is as well aware of as I am.

The very best that can be said about all of the testimony is that it is susceptible of two constructions, one possibly leading to guilty knowledge on the part of the defendant De Bon; and certainly the other that he was innocent of any wrongdoing.

You recall Mr. Hildebrand's testimony that he, himself, was a dealer, that he had no need, or the firm that he was with at the time, or the man he was in partnership with, had any need for the property which he acquired through Mr. Csaki [111] and which was later sold to Mr. De Bon.

Mr. De Bon had no transaction whatsoever with Csaki, with the exception that he prepared the bills of sale which were later notarized. The cashier's checks which I admitted here, your Honor, are made out in De Bon's name. That is not the act of a person trying to conceal, or guilty of any wrong-doing. If anything had been done here clandestinely, your Honor, I could well understand why you might submit to an inexperienced jury because this is their first trial—a case of this type. There is no evidence here remotely connecting De Bon with any conspiracy, guilty of any wrong-doing, because the evidence here, your Honor, is——

The Court: Mr. Tramutolo, not to unduly interrupt you, may I again ask you to explain the two cash payments?

Mr. Tramutolo: To Hildebrand, yes, your Honor.

The Court: And also the payments made to Csaki.

Mr. Tramutolo: Whether Csaki was to get anything out of that, your Honor, there is no evidence that De Bon wanted him to get any portion of it. There is nothing wrong that if you exercise a priority and have the right to do so for me under the Act to pay you any bonus over and above the cost to the Government, because the Government is not defrauded, because it has received full payment; so that I can say this without fear of contradiction, your Honor; in a sale that occurred just as recently as last week at Belleair, across the bay—or down the Peninsula—where millions of dollars worth of

property were sold, where the Veterans had sole priority, and they were there with counsellors who were permitted to remain there, although they are usually excluded, millions of dollars worth of property was bought by veterans but never reached the veterans.

Now, if De Bon was trying to do something dishonest, I could well understand why this case should go to a jury, but I am frank to say that your Honor must believe that this testimony, at very best, is susceptible of two interpretations, and where it is, the jury, if it was a jury matter, or submitted to the jury, should give the defendant the benefit of the doubt and acquit. That would be an instruction.

Now, that being true, it is a stronger reason why your Honor should grant, in a case of this type, tremendously, in my experience, as weak a case as I have seen, and your Honor should grant this motion. I am not trying to criticize the FBI. They have their problems. I am not trying to criticize the office of the United States Attorney, because I held that office once and know their problems; but here are two witnesses, the Government's own witnesses, who have said they never were guilty of any wrongdoing. Csaki said he didn't know anything was wrong until he talked to Mr. Kennedy at the FBI in February of this year.

The Court: In the earlier stages of his testimony, he said he was very much concerned about the transaction, he was restive [113] about the transaction, he felt there was wrong-doing; latterly he recanted from it, so there are two interpretations.

Mr. Tramutolo: The most favorable construction of this testimony should be taken by your Honor with that view, because they are Government witnesses. Here is Hildebrand, a man who has a priority. He is acting as a dealer. He said to Csaki that everything was regular. Csaki permitted him to sign forms. Csaki makes bills of sale upon which he guarantees and warrants the title of that property. Now, there is nothing in the Act that prevents me, or you, or anybody else, when a veteran has exercised his priority for anything to which he has an exclusive priority to sell that, and if I purchase it with no wrong-doing in the preparation of any documents—which De Bon had never seen or had anything to do with—I am not guilty of any crime, and particularly the charge here, which is in three counts, one of conspiracy, and two substantive counts of filing certain claims.

Here is a man that is screened. He is asked about the nature of his business and the applications he has filed here: “Are you going into business? What are you going to do with this?”

Now, I do say this, that on the form there it says, “This property is not for resale.” That is binding upon the veteran but that is not binding upon a person who buys from the veteran, because it must have that language in the act, because the [114] penalty in this case, if a penalty would have to be imposed, must stem from the Act, itself, and I say, your Honor, that I wouldn’t make a motion of this type if there was any question in my mind of the sincerity of the defendant, but the seriousness of going to trial and putting on a defense is something that

is a substantial constitutional right, and I hope the court exercises it in this case, because this testimony, all of it, is susceptible of two interpretations.

The Court: Mr. Bonsall?

Mr. Bonsall: I feel, your Honor, that there is a conspiracy in this case. It was dependent on the exercise of Csaki's priorities that Hildebrand was able to act, and only through the co-operation of Hildebrand and Csaki was our friend Mr. De Bon able to obtain the trucks in question. I think there is—and further, we overlooked the fact that the money in this case was furnished by Mr. De Bon, and, as your Honor remarked, that money was paid to Hildebrand and divided with Csaki.

The Court: Of course, Csaki received two independent sums. Immediately after the first transaction he received \$25. Now, he knew the reasons underlying that payment; he knew why he received that money. He now professedly claims that he acted honestly upon the advice of Hildebrand. Thereafter there was another transaction; he received \$125. If he did not have knowledge in the first transaction he certainly had knowledge in the second transaction. Here are two separate, isolated transactions where he received separate sums of money. In addition to that, we find Mr. De Bon making cash payments surreptitiously, and all of these transactions are generally handled, in an automobile outside of the premises. That is a jury question. The motion is denied.

Mr. Tramutolo: May I note an exception, your Honor?

The Court: Yes, sir. Call the jury.

(Thereupon the jury was returned into the courtroom and the following proceedings were had:)

The Court: The jurors are present, gentlemen; you may proceed.

Mr. Bonsall: So stipulated, your Honor.

The Court: Mr. Tramutolo, you may make your statement. I presume you desire to.

Mr. Tramutolo: May it please the Court, and you, ladies and gentlemen of the jury, the defendant will take the stand in his own defense, and I expect to prove by him that in the acquirement of this property from Hildebrand, who held a veterans'—or a dealer's, rather than a veterans' license from War Assets, that he was not guilty of any wrongdoing in acquiring that property, that is, the trucks testified to. I have said on several occasions, as you no doubt heard, two Chevrolets, but the charge is but one Chevrolet and the three White trucks.

Mr. De Bon met Mr. Hildebrand the day that the Chevrolet [116] truck was acquired, around about July 8, 1946, and in talking at the War Assets headquarters at 30 Van Ness Avenue that there were certain brochures there and catalogs with regard to sales to veterans and dealers who held priorities, such as Mr. De Bon, who, we will prove, held a dealer's priority and credit with the War Assets.

and that a discussion occurred, and they finally got around to the matter of trucks which De Bon was interested in, and he said to Mr. Hildebrand, if these can be acquired "I am interested."

We will prove also that money that has been testified to, paid as a bonus, I think first \$50, although again I must and will come in perhaps that there was a hundred dollars for the two Chevrolets, but the Government again only relies on the 50 paid for one Chevrolet, and approximately 570 or 80 was paid to Mr. Hildebrand for the three White trucks, or the three trucks, whether they are White trucks, or not, but they are referred to as White trucks, and I believe that is the charge in the indictment, that Mr. De Bon never told Mr. Hildebrand to make any division of that money to anyone. He was paying him merely a bonus, in the belief that this man was a dealer.

We also expect to prove that Mr. De Bon, up to the present moment, has a credit and has purchased property from the Government and from the War Assets, where he is known to the officials, and their employees.

Further, we expect to put Mr. De Bon's character into [117] issue, or as an issue in this case, and on so doing I naturally am going to expect all of you to return a verdict of not guilty.

Mr. De Bon, take the stand.

ED DE BON

the defendant, was sworn as a witness in his own behalf.

The Clerk: Will you state your full name to the court and jury?

The Witness: Ed De Bon.

Mr. Tramutolo: May I also say, your Honor, that this would not apply to you, because you can ask a question at any time, but new jurors sometimes feel they would like to ask a question, and they don't think they have the authority. I want this jury, any one of you, to ask Mr. De Bon any questions. I may, with what little adroitness or ability I have, overlook something, and if anything occurs to you that you want to ask him, please do so.

The Court: That may be the order, Mr. Tramutolo. If any of the jurors have any question in mind concerning his testimony, you may ask it through the court.

Direct Examination

By Mr. Tramutolo:

Q. What is your full name?

A. Ed De Bon.

Q. Speak loudly so Mr. Bonsall, back here, can hear you.

Mr. Bonsall: That is not one of my faults. I have pretty [118] good hearing.

Mr. Tramutolo: I wouldn't say that about you, Mr. Bonsall.

Q. Where do you reside, Mr. De Bon?

A. Eureka, California.

(Testimony of Ed De Bon.)

Q. How long have you resided there?

A. About two years.

Q. Where did you reside previous to residing in Eureka, California?

A. Mt. Shasta and Weed, California, both.

Q. How long did you reside in Mt. Shasta?

A. Oh, between Weed and Mt. Shasta I should say about thirty years.

Q. In Weed and Mt. Shasta about 30 years.

A. That's right.

Q. And what is your business, Mr. De Bon?

A. Automobile and trucks, selling and buying.

Q. How is that?

A. Selling and buying automobiles and trucks.

Q. And you have purchased, have you not, considerable property from the Government, War Assets?

A. Yes, I have.

Mr. Bonsall: That is objected to. We are concerned with this particular property.

The Court: Overruled. [119]

Q. (By Mr. Tramutolo): And you hold a credit from the War Assets Administration for the purchase of property?

A. Yes, I have.

Q. And, Mr. De Bon, you visit San Francisco frequently, do you not, to go to War Assets and purchase property and look for property you are interested in?

A. Once a week.

Q. And you have been doing that for what period of time?

A. Well, about fourteen months, fifteen months.

(Testimony of Ed De Bon.)

Q. Now, have you any agency at the present time in Eureka, any automobile agency?

A. Yes, I have.

Q. What agency do you handle?

A. We handle the Federal truck line and the Kaiser and Frazer automobiles.

Q. The Federal trucks and the Kaiser and Frazer automobiles? A. That's right.

Q. What other agencies have you had, Mr. De Bon?

A. Previously we had Cadillac, Chrysler, Plymouth, Nash, General Motors Trucks, for the last twenty years, twenty-five.

Q. As I understand it, you have resided in Northern California practically for the past thirty years or more? A. Right.

Q. How old are you, Mr. De Bon?

A. 51. [120]

Q. What does your family consist of?

A. My wife and boy.

Q. Is your boy of age? A. 27.

Q. What does he do?

A. He is a doctor.

Q. And the other member of your family is your wife? A. That's right.

Q. Getting down to the charge in this indictment, when did you first, or did you know John Hildebrand?

A. I met him on July 8, 1946.

Q. And where did you meet him?

A. Van Ness Avenue.

(Testimony of Ed De Bon.)

Q. And was that a pre-arranged meeting, or was it just accidental? A. Accidentally.

Q. You say you met him where?

A. At 30 Van Ness Avenue.

Q. At the War Assets Administration?

A. That's right.

Q. What was he doing there at the time you met him?

A. I couldn't tell you. He was walking in and out of the building, and someone introduced me to him, and we got to talking about trucks and so on, and the conversation come up regarding he had a couple of trucks that he couldn't use. He asked me [121] if I could use them. I told him I probably could, that I am in that line of business. We finally that afternoon got together and I told him I will take the trucks, and I purchased those two Chevrolet trucks.

Q. You purchased the two Chevrolet trucks——

A. In the meantime he told me he had two or three others that he had applied for that was coming up and he couldn't use, and if I might could use them he was willing to sell them, and I told him, "If you can't use them I will buy them and take them off your hands and give you a little profit."

Q. You told him you would give him some profit?

A. That's right.

Q. What did you tell him you would pay him for the two Chevrolet trucks? A. \$100.

Q. \$50 for each truck? A. Right.

(Testimony of Ed De Bon.)

Q. Did you ask him to divide that money or give it to anyone?

A. I didn't know anyone was connected.

Q. With respect to the three White trucks, what did you pay him? A. \$580. [122]

Q. \$580? A. Yes.

Q. With respect to the \$100 you paid Mr. Hildebrand, how did you pay him, by check or by currency?

A. I had quite a bit of currency in my pocket and I gave him \$400 in currency and a \$150 check.

Q. No, I am asking about the Chevrolet.

A. \$100 in currency.

Q. \$100 in currency? A. Yes.

Q. Where did you give him that currency?

A. Right up in the office of War Assets Administration.

Q. How was the Chevrolet paid for when you got the bill of sale?

A. A couple of cashier's checks.

Q. Two cashier's checks?

A. One or two cashier's checks.

Q. One or two cashier's checks?

A. Yes, one or two—I couldn't say.

Q. You also paid for the White truck, didn't you? A. Yes.

Q. You obtained the cashier's checks which have been introduced here and which were made out to you? A. Yes, for my name.

Q. And delivered to War Assets for the payment of those trucks? [123] A. Yes.

(Testimony of Ed De Bon.)

Q. Did you get a bill of sale for the Chevrolet trucks? A. Yes.

Q. What did you do with the bill of sale when you obtained it?

A. I took it home and when we sold the Chevrolet truck I had to send it to the Division of Motor Vehicles for transfer.

Q. You are talking about the bill of sale that you received and then you sent it to the Department of Motor Vehicles for transfer?

A. Yes. For transfer to the new buyer, and the second one I still have at hand.

Q. You still have the Chevrolet on hand?

A. Yes.

Q. With respect to the White trucks, did you do the same thing?

A. Same thing—same routine.

Q. You were starting to state you had made a payment of \$580 to Mr. Hildebrand for the White trucks. How was that payment made?

A. In cash and \$430 in cash and \$150 check; as I recall.

Q. Which you made out to Hildebrand?

A. No. The check was payable to me and I endorsed it.

Q. You endorsed the check and delivered it to Mr. Hildebrand? A. Yes.

Q. Were you aware of any wrong-doing when you purchased this material or these trucks from Mr. Hildebrand? [124]

(Testimony of Ed De Bon.)

Mr. Bonsall: That is calling for a conclusion and opinion, your Honor.

The Court: Sustained.

Mr. Tramutolo: All right.

Q. Did you ask Mr. Hildebrand or anyone else to falsify any record that had to be delivered to the government, the War Assets Administration, or any other agency? A. No.

Mr. Bonsall: I object to the question on the ground it is leading.

The Court: Objection overruled.

Q. (By Mr. Tramutolo): What is the answer?

A. No.

Q. Did you know what, if anything, Mr. Csaki and Mr. Hildebrand were doing with regard to any government documents? A. No, I didn't.

Q. Did you ever attend any meeting where these documents were discussed? A. Never.

Q. But you would know, would you not, that you as a dealer could not buy those trucks?

A. Yes, sir.

Q. How did you happen to buy them from Mr. Hildebrand?

A. He was introduced to me as a dealer.

Q. He was introduced to you as a dealer, as one having a [125] dealer's license? A. Yes.

Q. Your transactions, then, were all with Mr. Hildebrand? A. Yes.

Q. Did you ever have any dealings with Mr. Csaki?

A. Never. I never met the man until July 24.

(Testimony of Ed De Bon.)

Q. That is the time that he gave you a bill of sale which was notarized? A. Right.

Q. You insisted upon having it notarized?

A. Right.

Q. Mr. De Bon, have you purchased from a government agency or any government agency, including War Assets, any property as recent as, say, the past two weeks?

Mr. Bonsall: Objected to as immaterial.

The Court: Sustained.

Mr. Tramutolo: My purpose in asking the question, your Honor, is to show that Mr. De Bon still is regarded as a man of integrity. Otherwise he could not deal with an agency. They would cut him off immediately.

The Court: We are trying one case only here, Mr. Tramutolo.

Mr. Tramutolo: All right, I understand, your Honor.

Q. Mr. De Bon, why did you pay by cashier's checks for the Chevrolet truck or trucks and also the three White trucks instead of using your credit card with War Assets? [126]

A. The only time we used a credit card—I have a credit up to \$100,000 or \$150,000.

Mr. Bonsall: I move to strike that as a voluntary statement and not responsive to the question.

The Court: I will allow it. He has a credit rating.

Q. (By Mr. Tramutolo): Will you repeat that, Mr. De Bon?

(Testimony of Ed De Bon.)

A. The only time we used our credit card is out of the state where I am unknown.

Q. Where you are not known?

A. That's right. I have to bring a card where they won't take my check. If we were in a situation where we couldn't get a cashier's check and we don't know the amount of the material we want, I use that credit.

Q. But in San Francisco you pay by cashier's check?

A. Either by cashier's check or my own personal check.

Q. But you use your credit when you go into communities where you are not known?

A. Right.

Q. When was the first time you knew, Mr. De Bon, that you were involved in anything that violated the law with regard to these transactions?

A. Along—probably—I couldn't recall. It was either January or February of this year when a man from the government came up and saw me.

Q. Where did he come? [127]

A. Eureka.

Q. Did you talk to him at the time?

A. Yes.

Q. What did you tell him or what did he ask you with regard to the transactions?

A. He asked me—there was no five trucks, but only three trucks. I started to answer him because I didn't know what was going on. The only thing is, he walked into the place and he says, "Mr. De

(Testimony of Ed De Bon.)

Bon?" I says, "Yes." He says, "You know you are in trouble?" And I answered back, "Not that I know of."

Q. Did you ever know Mr. Hildebrand prior to July of 1946?

A. Never met the man; never knew him.

Q. At the time you met him in July of 1946, or around about July 8 thereof at the War Shipping Administration, did he tell you who he was connected with at the time? A. No, he didn't.

Q. Was he with the War Assets Administration at the time? A. No, he didn't tell me.

Q. Are you acquainted with a number of the officials there, or were you at the time?

Mr. Bonsall: Objected to as immaterial.

The Court: Objection overruled.

Q. (By Mr. Tramutolo): What is the answer?

A. I am.

Q. You are? [128]

A. Yes, I am acquainted.

Q. Now, Mr. De Bon, of the trucks that you obtained from Mr. Hildebrand, did you dispose of those trucks?

Mr. Bonsall: Objected to as immaterial.

The Court: Sustained.

Mr. Tramutolo: I may have asked this question, your Honor, and I would ask your Honor to be indulgent if it is repetitious.

Q. Did you ever have any meeting to discuss the purchase of this property with Mr. Hildebrand and Mr. Csaki and yourself? A. Never.

Mr. Tramutolo: That's all.

(Testimony of Ed De Bon.)

Cross-Examination

By Mr. Bonsall:

Q. Mr. De Bon, did you see this gentleman who happens to be standing here now before? Did you ever see him before?

A. Not that I remember.

Q. That is Mr. Dillon of the FBI. Did you ever see him before?

A. Yes, I believe I did, now. It seems to me he was huskier then. He was heavier then. Now I can recall him.

Q. Was this man you had the discussion with in January of 1947 regarding this case?

A. Can I ask him if he was stouter then? Were you stouter at that time? Were you heavier then?

Mr. Dillon: No.

The Witness: He looks not as stout as then. He looked [129] to be a bigger man than he is now.

Q. (By Mr. Bonsall): Do you recall Mr. Dillon asking you if you had paid Mr. Csaki or Mr. Hildebrand in connection with the Chevrolet trucks and White trucks? A. Yes.

Q. As a matter of fact, that you told Mr. Dillon first you hadn't paid any money to either of these gentlemen?

A. No. I told him I paid them a small amount of money.

Q. I said at first.

A. I told him at first that I did not remember what I paid, but I paid between 25 and 50 dollars.

(Testimony of Ed De Bon.)

Q. After while, do you recall telling him whether you may have paid them a small sum for their services to cover their expenses, possibly 25 or 50 dollars?

A. That's right.

Q. And that you told him that the total amount that you had paid Mr. Hildebrand at the time would not exceed \$150 all told? Do you recall that?

A. There was only two truckloads.

Q. Well, answer the question if you can.

A. Probably I did.

Q. Well, did you or didn't you? A. I did.

Q. You now say you paid \$570 for this White trucks?

Mr. Tramutolo: I think his testimony was \$580. [130]

Mr. Bonsall: Yes.

The Witness: He asked me, all the trucks like that which you want——

The Court: Well, just answer the question. How long have you been engaged in the automobile business?

A. I should say off and on for 30 years.

Q. You are pretty well familiar with the way the automobile business is carried on in its several branches, aren't you? A. Right.

Q. And you are pretty well familiar with how property is acquired from the War Shipping Administration, are you not? A. Yes.

Q. Have you paid any—Strike that out. You wanted these trucks, did you?

A. I told the man that I could use them.

(Testimony of Ed De Bon.)

Q. Now, I show you these two brochures, Government Exhibit 11, first, and I ask you if you saw that when you were at the War Assets Administration office on July 8, or a similar copy.

A. I couldn't say that I did or did not. I couldn't recall.

Q. In picking out the Chevrolets that you refer to, did you pick them out of any book of this kind?

A. No.

Q. Do you deny that these books were before you on July 8?

A. You asked me about the Chevrolet. Now, let us finish that.

Q. I am talking about the Chevrolet. [131]

A. Well, I didn't pick it out.

Q. You didn't pick it out?

A. Absolutely not.

Q. Who did pick it out?

A. I couldn't tell you.

Q. You wanted these Chevrolets, didn't you?

A. I did not.

Q. You didn't want them?

A. I told him if they were there and he could not use them I would buy them, but not that I was looking for them.

Q. Then I show you this other brochure, marked Government Exhibit 12, and ask you if on the 8th of July you consulted a pamphlet similar to that in connection with picking out the White trucks.

A. I may have seen it. I wouldn't say I had it in my possession.

(Testimony of Ed De Bon.)

Q. Isn't it a fact you opened up and found out the tag numbers of some White trucks from one of these books similar to this?

A. No, I did not because I knew I couldn't buy under that book.

Q. You knew you couldn't buy from this book?

A. I knew that.

Q. You say you didn't see these books?

A. I couldn't say.

Q. On that day, July 8, did you see either of these books or similar ones?

A. I probably have. [132]

Q. Would you say yes or no? A. Yes.

Q. Would you deny that you looked inside these books to secure the tag numbers of the respective Chevrolets and White trucks?

A. I will deny that.

Q. When you obtained those Chevrolets, didn't you realize that Csaki's priorities were being used?

A. No, I didn't.

Q. In connection with the White trucks, didn't you know that Csaki's priorities were being used?

A. I didn't.

Q. Didn't you think it was strange on the 27th that Oscar Csaki, Hildebrand and yourself were together and it was necessary for Mr. Csaki to execute these documents in connection with the purchase and delivery of the bills of sale to you?

A. On what date?

Q. On July 27, 1946.

A. I didn't see Mr. Csaki, or either one on the 27th. I didn't see either one.

(Testimony of Ed De Bon.)

Q. I should have said the 24th, just in regard to those White trucks: Didn't you think it was strange that Oscar Csaki, Hildebrand and yourself were together and these papers were executed by Csaki to you; didn't you think then that somebody's priorities were being used?

A. I didn't know it. I thought I was doing business with a [133] dealer where I could buy from one dealer to another, like we do every day.

Q. But I asked you if you didn't think that somebody's priorities were being used.

A. I did not.

Q. On July 9 did you receive the bill of sale from Csaki to yourself for the Chevrolet? A. Yes.

Q. Did you notice that Csaki's name was in there as a grantor? A. Yes.

Q. Didn't you think that was strange?

A. No.

Q. Didn't you think some person's priorities had been exercised in securing that?

A. I did not.

Q. You knew both these sales were on priorities?

A. Yes.

Q. Did you know that one of them was restricted to veterans alone? A. Or veteran dealers.

Q. Didn't you know that the other one was practically—Withdraw that. Didn't you know that from June 24 to July 12, the sale at which the White trucks were being purchased was on the date you made your application and was limited to veterans of World War II? Didn't you know that? [134]

A. I did not.

(Testimony of Ed De Bon.)

Q. Why did you pay Mr. Hildebrand in cash and not by check for his services?

A. Well, he probably needed the money and I figured he could use the cash instead of taking a check, not being acquainted and not being able to get the check cashed, and I had that amount of money and I could give it to him.

Q. Did you withdraw \$500 from the Bank of America on July 24, 1946?

A. I probably did; I couldn't remember.

Q. Well, I will show you what purports to be a cashier's check drawn on the Bank of America, dated July 24, 1946, No. 2818883, "Pay to the Order of Ed De Bon \$500," cashier's check. That was on the same date you received these three other cashier's checks.

A. Probably so. I couldn't recall it. I cash checks all the time.

Q. Was that where you got the \$500 with which to pay Hildebrand?

Mr. Tramutolo: Just a moment. Is that dated July 26?

Mr. Bonsall: No, July 24, 1946.

Mr. Tramutolo: I thought you said July 26.

Mr. Bonsall: I said July 24.

The Witness: Probably I did.

Q. (By Mr. Bonsall): As a matter of fact, don't you know that was where you obtained the \$500 cash that was paid to Mr. [135] Hildebrand?

A. I couldn't swear to that. I always carry five or six or eight hundred dollars cashier's checks daily. I meant I cashed the check.

(Testimony of Ed De Bon.)

Q. You cashed this check made out to yourself, did you? A. Yes, I suppose I did.

Q. You needed the \$500.

A. I can't recall if I did or not.

Q. Do you recall this is some of the money you paid Mr. Hildebrand? A. That's right.

Mr. Bonsall: I ask that be admitted in evidence.

The Court: So ordered.

Mr. Tramutolo: Of course, my objection is, your Honor, that it concerns nothing brought out on direct examination and therefore is not proper cross-examination.

The Court: Objection overruled.

Mr. Tramutolo: I make no objection so far as that is concerned, but I say it is not proper.

The Court: Reference was made, Mr. Tramutolo, to the cash payments. This is proper cross-examination and the witness admits this check went through and was diverted into the cash.

(Check referred to was marked Government 19 in evidence.)

Mr. Bonsall: No further questions.

Mr. Tramutolo: That's all. [136]

Mr. Tramutolo: Your Honor, I would ask for a short adjournment. I am asking two character witnesses who are here in town to testify. I did not anticipate we would finish at this time and I asked them to be here at 3:30. I had two other character witnesses from Eureka which I am willing to not call, and call only the two witnesses from San Francisco who will be here, as I say, at 3:30.

(Testimony of Ed De Bon.)

Mr. Bonsall: I will stipulate the witnesses who would be produced would testify this man was of good character. If they were here they would so testify.

The Court: Mr. Tramutolo may wish to devote additional time to these witnesses. Will you accept the stipulation?

Mr. Tramutolo: I will accept the stipulation and I will state the people I am calling, their names, so you may know who they are.

Mr. Bonsall: I would not want to go further. I am willing to make the stipulation as I have stated.

The Court: Will these witnesses be here presently?

Mr. Tramutolo: Two of them will, your Honor.

Mr. Bonsall: I had in mind putting on a rebuttal witness out of order.

The Court: Have you concluded, Mr. Tramutolo, other than your character witnesses?

Mr. Tramutolo: Yes, your Honor.

The Court: By the way, Mr. De Bon, may I ask one question: [137]

Q. In connection with these cash payments you made to Hildebrand, how did you account for those cash payments?

A. We charged them against expense.

Q. You charged them against expense?

A. Yes, we charged them against expense of each truck, when we sell it, of each unit. I will charge it against expense, against the selling expense of the truck, or repairing. We charge it against that said truck.

(Testimony of Ed De Bon.)

Q. One further question: When Csaki came into the transaction, as it then appeared he was then on the bill of sale, did you make any protest to Hildebrand or Csaki?

A. I thought they were in partnership as a dealer.

Q. You thought they were in partnership?

A. Yes.

Q. Did Hildebrand ever represent to you that Csaki was his partner?

A. No, but he told me he had a partner, but I didn't know who he was and never met him until that day when I made final payment.

Q. So you had no discussion when the bill of sale was passed over? A. No.

Redirect Examination

By Mr. Tramutolo:

Q. Mr. De Bon, when you purchased this merchandise, did you enter it in your books at Eureka?

Mr. Bonsall: That is immaterial.

The Court: I assume he keeps books of account.

The Witness: Yes, sir.

Q. (By Mr. Tramutolo): Did you make entries of the purchase of these trucks? A. Yes.

Q. And the cost of reconditioning them?

A. Yes.

The Court: Ladies and gentlemen of the jury, at the suggestion of Mr. Tramutolo at the outset of the testimony of Mr. De Bon, he informed the jurors

they might interrogate the witness through the Court. Have any of you ladies or gentlemen any questions to ask?

Very well, no questions.

WILLIAM B. DILLON

called as a witness in behalf of the Government in rebuttal, sworn.

The Clerk: Will you state your name to the Court?

A. William B. Dillon.

Direct Examination

By Mr. Bonsall:

Q. What is your occupation, Mr. Dillon?

Mr. Tramutolo: If your Honor please, in view of the admonition of the exclusion of witnesses, Mr. Dillon is not qualified to testify in view of that admonition.

The Court: There was the exception noted with respect to [139] the agents, Mr. Tramutolo.

Mr. Tramutolo: One agent, Mr. Kennedy, the one that was sitting behind Mr. Bonsall.

The Court: That was not my understanding.

Mr. Tramutolo: I submit that whatever your Honor thinks is all right, and it is fair and I have no quarrel with your Honor on that.

The Court: Ordinarily the exclusion of witnesses does not operate on the immediate agents.

Mr. Tramutolo: I didn't know this agent was here when this was testified to.

(Testimony of William B. Dillon.)

The Court: I assume this testimony will be directed to the conversation had at Eureka?

Mr. Bonsall: That is correct.

The Court: All right. Proceed.

Q. (By Mr. Bonsall): Mr. Dillon, what is your occupation?

A. I am a special agent of the Federal Bureau of Investigation.

Q. Have you ever seen this defendant, Ed De Bon, before? A. Yes.

Mr. Bonsall: Will you stipulate the witness identifies the defendant?

Mr. Tramutolo: Yes.

Mr. Bonsall: Where did you see him?

A. I talked with him at Eureka and at his place of business.

Q. When? [140]

A. On February 3 of this year, 1947.

Q. Who was present?

A. Mrs. De Bon.

Q. You will state the substance of your conversation with Mr. De Bon at the time, what you said and what he said.

A. Well, there was a rather lengthy conversation. I introduced myself to him. I showed him my credentials and told him I would like to inquire into some transactions with regard to trucks purchased through the War Assets Administration and proceed to the vehicles which he had purchased. He asked me what was wrong and I told him I didn't know there was anything wrong but I wanted to

(Testimony of William B. Dillon.)

talk over these transactions with him. I asked him then for data concerning his dealings with Oscar Csaki and John Hildebrand and he related first—well, we proceeded in an orderly manner which was where he had met them. He told me he met Mr. Hildebrand in San Francisco at a service station near the corner of Van Ness and Eddy. It was a chance meeting, that both were driving Buicks and both came in to have their cars greased and they met there. They conversed there just because of the two automobiles being of similar make. I then asked him where he met Csaki and he said he met Csaki in a restaurant on Van Ness Avenue. He was asked when these meetings occurred, and he said they occurred during the spring of 1947 and when he was asked to be more definite he said, "Some time between March and May." He was then asked if he had [141] purchased——

Mr. Tramutolo: Pardon me, Mr. De Bon, is that 1947?

The Witness: The spring of 1946, between March and May. He was then asked if he had purchased any vehicles through these two individuals, Csaki and Hildebrand, to which he replied that he had, that he had bought four vehicles. I asked him from whom he purchased the vehicles, from which veteran and he said he couldn't remember, but he thought he had purchased two vehicles from each veteran. He was then asked if he had paid the veterans anything for the use of their priorities and

(Testimony of William B. Dillon.)

he replied no, that he had paid them absolutely nothing. He was questioned a little more in detail about this remark and then he said, "Well, perhaps I did pay them something—not very much, fifty to a hundred dollars—not over a hundred dollars."

Up to that time the conversation had been of a rather general nature. He was then asked specifically regarding transactions occurring on July 8 and at that time he knew that I knew that cashier's checks had been procured by him.

He then said, "Pardon me, there was the Chevrolet truck," that I had asked him about and it was for that Chevrolet truck that the cashier's check in the amount of \$1100-odd was issued, and it was in addition to the telephone truck, the Chevrolet telephone truck, for which he paid \$2200-and-some-odd, and then he elaborated on the transaction.

He was then requested to state if he had made any [142] commitments to the veterans with regard to what they were to receive when these vehicles were purchased and again he said he had not made any. He then said he paid them twenty or thirty dollars each to cover their expenses only, that they had gone to either Stockton or Sacramento or both to the War Assets depots where these vehicles were parked, to examine them, and he was reimbursing them only for their expenses, and that they were of a minor character and in the total they would not exceed \$150, and he repeated that on two or three occasions.

(Testimony of William B. Dillon.)

He was then asked to produce his records regarding the purchase of these vehicles and with the help of Mrs. De Bon he was successful in locating two sheets of material such as is printed by the War Assets Administration dealing with the purchase of two of these vehicles. My recollection now is that they were both with respect to two Chevrolet trucks.

Mrs. De Bon was making a check of the records at his request, and found records were not there. He was then asked to produce his records regarding the checks with which these were purchased inasmuch as he had told me he had purchased these vehicles with checks drawn on his account in the Eureka branch of the Bank of America. Mrs. De Bon located a reference to a charge in the sum of approximately \$1100 against their account, and she questioned the propriety or description of anything further from the check records, and I was not shown anything further from the check records. [143]

We went over the story in its entirety again and at that time I asked Mr. De Bon if it was true and he stated it was. I asked him then if he would prefer that I typed it so that he could affix his signature after he read it over. He first said it was true but he was not going to sign anything. He then said, "If you want to type it up, go ahead."

The wife borrowed his typewriter and I typed about half a page of legal cap paper. Mr. De Bon was reading over my shoulder at that time and he then said, "That is enough. I am not going to sign anything. Besides, where is my copy?"

(Testimony of William B. Dillon.)

At that time he terminated the conversation indicating he had a lot of business and that was the end of our conversation.

The conversation took place at his place of business in Eureka on the afternoon of February 3rd and commenced at about 3:45, and I believe it was terminated about 5:00 or 5:15. During the course of our conversation he was interrupted from time to time with business dealings. People came to the door. Some of his mechanics came to the door and he had to converse with them from time to time.

Mr. Bonsall: Your witness.

Cross-Examination

By Mr. Tramutolo:

Q. Mr. Dillon, wasn't the reason that Mr. De Bon would not sign a statement which you were in the course of preparing, that you would not make a copy for him?

A. No, that isn't true. When he said, "Go ahead and type it," [144] I borrowed his typewriter which was there on the desk and turned it around so I could use it, and placed a piece of paper in the typewriter. He didn't offer any carbon copy or any means by which I could make a copy. And I had no such equipment with me. I typed about half a page before any objection was made about his copy. That remark was made just after he said, "Just a minute, I won't sign anything. Where is my copy?"

(Testimony of William B. Dillon.)

Q. In other words, he wanted a copy of what you were typing?

A. Perhaps he did. He said, "Where is my copy?"

Q. Did you interview any of his employees up there, Mr. Dillon?

Mr. Bonsall: I object to that as immaterial.

The Court: It is immaterial, Mr. Tramutolo.

Mr. Tramutolo: He was up there making investigations.

The Court: He might answer to the end that the jury gets all the facts.

The Witness: I arrived at this place of business, I should say, at about 3:00 o'clock or shortly before 3:00. I inquired in the display room of his place of business and was directed to the office. I entered the office and there was a woman sitting there and I asked for Mr. De Bon. She wanted to know what my business was and then she informed me that she was Mrs. De Bon, that he was downtown at the bank, I believe, which was about 3:00 o'clock, and that he would be back. I waited. During the course of the wait, I strolled about his shop and [145] conversed informally with the employees about the work they were doing, but nothing about this case. I did converse with Mrs. De Bon from time to time, but it was just small talk.

Q. (By Mr. Tramutolo): What I was trying to arrive at, Mr. Dillon, was, do you know that he has in his employ approximately ten veterans of World War II?

Mr. Bonsall: That is immaterial, it seems to me, and is objected to for that purpose.

The Court: It is immaterial. I sustain the objection.

Mr. Tramutolo: That's all.

Mr. Bonsall: That's all.

Mr. Tramutolo: Will your Honor permit me to put Mr. De Bon back on the stand for one further question?

ED DE BON

recalled as a witness on behalf of the defendant in rebuttal, previously sworn.

The Clerk: The witness on the stand is Ed De Bon, heretofore sworn.

Direct Examination

By Mr. Tramutolo:

Q. How many employees have you at Eureka?

Mr. Bonsall: Objected to as immaterial.

The Court: Objection overruled. You may answer.

The Witness: 14, 15 or 16 at different times.

Q. (By Mr. Tramutolo): How many of those employees are veterans of World War II? [146]

Mr. Bonsall: Objected to as immaterial.

The Court: Sustained.

Mr. Tramutolo: I ask that be permitted to be answered.

The Court: What is the theory upon which you are asking that question?

(Testimony of Ed De Bon.)

Mr. Tramutolo: First, if he wanted to act illegally, he has employees of his own who are veterans.

The Court: I sustain the objection.

Mr. Tramutolo: That is all.

Mr. Bonsall: That is all.

PATRICK JOHN KELLY

called as a witness on behalf of defendant, sworn.

The Clerk: Will you state your name to the Court and jury?

The Witness: Patrick John Kelly.

Direct Examination

By Mr. Tramutolo:

Q. Mr. Kelly, where do you reside?

A. 2345 Wawona.

Q. That is in San Francisco?

A. San Francisco, yes, sir.

Q. How long have you resided in San Francisco,
Mr. Kelly? A. 60 years.

Q. What is your business?

A. Service station attendant, Union Oil dealer.

Q. I didn't get the last.

A. Union Oil dealer.

Q. Union Oil service station? A. Yes.

Q. How long have you been in that business?

A. Three years and a half.

Q. What was your business previous to that?

A. I was 30 years in a garage at Van Ness and Eddy.

(Testimony of Patrick John Kelly.)

Q. Are you acquainted with the defendant in this case who is seated behind me, Mr. De Bon?

A. Mr. De Bon, yes.

Q. How long have you known Mr. De Bon?

Mr. Bonsall: I object to that until the proper foundation is laid.

The Court: Objection overruled.

Q. (By Mr. Tramutolo): How long have you known him?

A. In the neighborhood of 12 or 15 years. He was a customer in the garage.

Q. He was doing business with you?

A. Yes.

Q. Do you know his general reputation, Mr. Kelly, for truth, honesty and integrity?

Mr. Bonsall: I object to the form of the question.

The Court: Overruled.

The Witness: Well,——

Q. (By Mr. Tramutolo): Just answer yes or no. Do you know [148] his general reputation for truth, honesty and integrity?

A. Yes.

Q. It is good or is it bad?

A. Good.

Mr. Tramutolo: That is all.

Cross-Examination

By Mr. Bonsall:

Q. Have you ever visited Eureka?

A. No, sir.

Q. Are you acquainted with Eureka?

A. No, sir.

(Testimony of Patrick John Kelly.)

Q. Have you ever talked with any people living in Eureka about Mr. De Bon?

A. No, sir.

Mr. Bonsall: That is all.

Redirect Examination

By Mr. Tramutolo:

Q. You have talked with Mr. De Bon and you have talked with people who know him?

A. Oh, several times. I have several friends who are now dead who were in the garage when he was there.

Q. Did you ever hear him accused of being dishonest?

Mr. Bonsall: I object to that as improper.

The Court: Technically it is improper.

Mr. Bonsall: I will withdraw the objection.

The Court: But I think it should be overruled.

Q. Have you ever heard anything said about him in the negative [149] form, that he was charged with a crime?

A. During the years when he was in the garage business, he owed money to me, considerable money from time to time, and I never had any trouble collecting it.

Mr. Tramutolo: That is all.

Recross-Examination

By Mr. Bonsall:

Q. Did you ever hear of him being in trouble with anybody?

(Testimony of Patrick John Kelly.)

A. No, I couldn't because I have lost contact with him for some time.

Q. How long?

A. About three and a half years.

Mr. Bonsall: That is all.

Mr. Tramutolo: That is all.

The Witness: May I go now, Judge?

The Court: Yes.

The Witness: Thank you.

The Court: Ladies and gentlemen of the jury, we will take a recess now until 3:30.

May I again admonish you not to discuss this case among yourselves nor suffer or permit any person to converse with you on any subject of this trial, and not to form or express any opinion until the case is finally submitted to you.

(Recess.) [150]

Mr. Tramutolo: Stipulated the jurors are present.

Mr. Bonsall: So stipulated.

Mr. Tramutolo: Just after you adjourned Dr. Brumback appeared.

JAMES J. BRUMBACK

called as a witness on behalf of defendant; sworn.

The Clerk: Will you state your name to the Court and jury?

The Witness: James J. Brumback.

The Clerk: Will you spell the last name?

The Witness: B-r-u-m-b-a-c-k.

(Testimony of James J. Brumback.)

Direct Examination

By Mr. Tramutolo:

Q. What is your profession?

A. Dentist.

Q. Dentist? A. Yes, sir.

Q. And where do you reside, Dr. Brumback?

A. My home or office?

Q. Your home.

A. 21 San Benito Way, St. Francis Wood.

Q. And your office is located in San Francisco?

A. 964 Market.

Q. How long have you been a practicing dentist here in San Francisco?

A. About seventeen years. [151]

Q. Doctor, are you acquainted with Mr. Ed De Bon, the defendant in this case?

A. Yes, sir; yes, sir.

Q. How long have you known him?

A. About 25 years.

Q. And that acquaintance exists up to the present time? A. Yes, sir.

Q. Have you had any business dealings with Mr. De Bon? A. Yes, sir.

Q. Do you know of his general reputation, Doctor, for truth, honesty, and integrity?

A. I do.

Q. Is it good or bad, Doctor? A. Good.

Mr. Tramutolo: That's all.

(Testimony of James J. Brumback.)

Cross-Examination

By. Mr. Bonsall:

Q. Did you know Mr. De Bon in Eureka at any time?

A. Oh, yes, I knew Mr. De Bon before that.

Q. Have you seen him in Eureka recently?

A. I see him every month.

Q. My question was, how frequently you have seen him in Eureka.

A. I saw him in Eureka in October.

Q. Of last year? A. That's right. [152]

Q. And prior to that, when did you see him in Eureka?

A. I have just seen him the once in Eureka. He visits my office in San Francisco quite often.

Q. I am still speaking of Eureka. I want to keep it clear. A. Just once in Eureka.

Q. In the last five years how often have you seen him in Eureka, just roughly?

A. Just once in Eureka.

Q. How long were you there at that time?

A. About two or three days.

Q. Did you talk about him with anyone there?

A. Yes, I have a very good friend there, Dr. Simpson, who is also a friend of Mr. De Bon.

Q. Did you ask your doctor friend what his reputation was at that time?

A. Well, this individual——

Q. Just answer "Yes," or "No."

A. I didn't ask him, no.

(Testimony of James J. Brumback.)

Q. Did you ask anybody what his reputation was in Eureka?

A. I wasn't inquiring about his reputation.

Q. Just answer my question if you can. I think it is clear.

A. No, I didn't ask anyone.

Mr. Bonsall: That's all, Doctor.

Redirect Examination

By Mr. Tramutolo:

Q. Doctor, you have discussed at various [153] times, have you not, Mr. De Bon's reputation?

A. Why, yes.

Mr. Bonsall: Just a moment. I think it should be limited to the place of his residence.

Mr. Tramutolo: I doubt that, your Honor. I think your Honor has already ruled.

The Court: I have ruled on that. I am willing to allow latitude. I think latitude should be allowed.

Q. (By Mr. Tramutolo): Did you ever hear anything ill about his honesty or character?

A. No, I never have.

Q. You always heard him well spoken of?

A. I certainly have.

Mr. Tramutolo: That's all.

Mr. Bonsall: No further questions.

Mr. Tramutolo: Your Honor, that completes our case. Mr. Bonsall has agreed that the other witnesses I was bringing from Eureka need not come, and I do not desire to delay the trial, as Mr. Bonsall will stipulate that if they were here

they would testify that his general reputation for truth, honesty and integrity were good.

Mr. Bonsall: I would so stipulate.

Mr. Tramutolo: That completes our case.

The Court: Have you any further evidence?

Mr. Bonsall: No further evidence. [154]

The Court: The evidence now stands submitted?

Mr. Bonsall: It does, your Honor.

Mr. Tramutolo: Now, if your Honor please, may I ask that the jury be excused?

The Court: And I assume then you will desire to take an adjournment?

Mr. Tramutolo: That is right.

The Court: Ladies and gentlemen of the jury, the evidence has been completed in this case. The next step in the trial thereof will be the arguments tomorrow morning at ten o'clock. Therefore, this court will recess this particular case until tomorrow morning at ten o'clock. Court will stand adjourned as to this case until tomorrow morning at ten o'clock, save and except for the arguments of a legal character. You may retire until ten o'clock tomorrow morning.

(Thereupon the jury withdrew from the courtroom, and the following proceedings were had:)

Mr. Tramutolo: Your Honor, following the procedural custom and requirements, I made a motion for a directed verdict of acquittal following the close of the Government's case, and it is the custom and required, as I take it, by the rules of court, to follow that when all of the testimony is in, and

I now ask that your Honor regard the statements I made heretofore with all of the testimony in, that a verdict of not guilty, a [155] directed verdict of not guilty, be given to the jury.

The Court: As to all counts?

Mr. Tramutolo: As to all counts.

The Court: Motion denied.

Mr. Tramutolo: And an exception may be noted?

The Court: Yes.

Mr. Tramutolo: There is a Federal official to a great department that I had the honor of being with for some time, and they are dedicating a new stamp at the Auditorium at 4, and I would ask your indulgence. Of course, we have finished this case much sooner and I would appreciate it if your Honor would consider it.

The Court: I think in view of the efforts of both counsel to hasten this trial, the request comes very timely.

Mr. Tramutolo: With your assistance, I think it went along very fast.

The Court: Under the rule, it is the obligation of the court to discuss instructions with you in advance, at least to indicate to respective counsel the instructions that I will give, so that you may be prepared to take whatever exceptions you may have, and your instructions were submitted at noon. I will go over them late this afternoon and indicate to counsel in advance of further trial tomorrow morning, let us say at—Mr. Mitchell, have we a calendar at 9:30?

The Clerk: No, your Honor, it starts at ten.

The Court: I will indicate tomorrow at a quarter to ten, so you may be guided in the course of your arguments.

Mr. Tramutolo: That will be very helpful, your Honor. With that indication we know how to argue.

The Court: At a quarter to ten in open court I will indicate to counsel the instructions I propose to give, as suggested by respective counsel, together with such supplemental instructions as I may desire.

Mr. Tramutolo: I handed those in this morning as you indicated, by ten o'clock. I did not know they had not been handed to you. A copy was given to Mr. Bonsall and the original to Mr. Mitchell.

The Court: They are in. There is no question about the time. We will adjourn until tomorrow at ten o'clock.

(Thereupon at 3:42 p.m. an adjournment was taken until tomorrow, Thursday, July 31, 1947, at ten o'clock a.m.) [157]

Thursday, July 31, 1947, 1:30 o'Clock P.M.

The Clerk: United States of America vs. Ed De Bon, on trial.

The Court: Is it stipulated that the jurors are present, gentlemen?

Mr. Bonsall: Yes.

Mr. Tramutolo: On behalf of the defendant, your Honor, it is.

The Court: Ladies and gentlemen of the jury, it is now the province and duty of the court to in-

struct you as to the law of this case. I am mindful that this is your first criminal case in which you have participated as jurors, and you may recall that when you were impaneled by this court in the first instance as jurors, I then admonished you as to your duties under the law. I admonished you in addition as to the burdens upon you, particularly in a criminal case; the burden on the court, as well as on counsel and as well as on the jurors, is a great burden. However, it is our duty. You have assumed the duty, and we expect you to discharge it in accordance with the facts as elicited through the witnesses, and in accord with the law as announced by this court.

The court and the jurors, in a certain fashion, operate as a team. You determine the facts, pass upon the credibility of witnesses, and the like, and the court is concerned only [159] with the law of the case.

At the very threshold, I desire to indicate very definitely to you that with respect to the attitude of the court in this case in the interrogation of any witness or witnesses, or any comment the court may have made, either directly or indirectly, or inferentially, you are not to regard any such conduct as indicating on the part of this court any view with respect to the guilt or innocence of the defendant. On occasions, it is the duty of this court, or any other court, to elicit all of the facts, and if the court believes that the facts have not been developed, it is the obligation of the court to bring out those facts.

In connection with the instructions as I give them

to you, it is your duty not to consider one isolated instruction, but to regard all of the instructions as a whole, rather than to accept one individual statement of the law.

It is your duty exclusively, and it is your province exclusively to review the facts and to pass upon the evidence, and in that respect you are the sole judges; you are untrammelled in that respect, and this court is without either obligation or function in that regard.

Now, I announced to you on your impanelment in this case that the mere fact that an indictment or true bill had been brought against the defendant at bar, or any other person, is not to be considered by you as evidence of the [159] defendant's guilt. The indictment, as I have indicated, is merely a legal accusation charging the defendant with the commission of an alleged offense. It is not to be considered by you as evidence in the case, that is, the charging part of the indictment, be it in the first count, the second count, or the third count, or any of the overt acts alleged in the so-called first count or not, nor is any of them, to be considered by you as evidence against the defendant. As I announced to you, the indictment, or complaint, or information is merely the skeleton, and as you build a house, you must superimpose the structure thereon, to wit, bricks, and as I have indicated to you, the bricks represent the evidence, and without the evidence the superstructure must fall.

Now, from an elemental viewpoint, the defendant is presumed to be innocent of the crime charged

against him. This presumption of innocence attaches at the very beginning of the trial. It has the weight and effect of evidence in the defendant's behalf, and continues to operate at all stages of the trial, not at the first or initial stage only, but at all stages of the trial, and when you finally retire to the jury room to deliberate upon a verdict, it becomes your duty to consider the evidence introduced in this case in the light of the presumption of innocence. This presumption is sufficient in and of itself to acquit any defendant charged with a crime, unless it is overcome by evidence that satisfies your mind to [160] a moral certainty and beyond a reasonable doubt of the guilt of the defendant, and unless you, and each of you, are satisfied it is your duty to find the defendant not guilty.

It is not necessary for the defendant to prove his innocence, under our standards of justice; the burden rests upon the prosecution to establish every element of the offense with which a defendant is charged, to a moral certainty and beyond a reasonable doubt.

Now, what is reasonable doubt? Reasonable doubt is not a fiction in the law. It is a doubt resting upon the judgment and reason of him who conscientiously entertains it from the evidence in the case. There is nothing whimsical about it, or fanciful. It is doubt based on reason. By such doubt is not meant every possible or fanciful conjecture that may be suggested or imagined, but a fair doubt based on reason and common sense, and growing out of the testimony in this case.

Reasonable doubt is that state of the case which, after the entire comparison and consideration of all the evidence in the case, leaves the minds of the jurors in that condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge.

Without it being restated or repeated, you are to understand that the requirement that a defendant's guilt be shown beyond a reasonable doubt is to be considered in connection with and accompanying all the instructions that are given to [161] you by the court.

You must also remember, ladies and gentlemen of the jury, that the defendant is entitled to any reasonable doubt you may have in your minds, but at the same time, remember also that if you have no such doubt the Government is entitled to a verdict.

Now, circumstantial evidence is a category, in the sense that there are two classes of evidence recognized and admitted in courts of justice, upon either of which juries may lawfully find an accused guilty of a crime. One is direct or positive testimony, that is, by an eyewitness, to the commission of the crime, and the other is proof in evidence of a chain of circumstances pointing sufficiently strongly to the commission of the crime by the defendant, and which is known as circumstantial evidence.

The law in regard to circumstantial evidence is this: In order to justify a jury in finding a verdict of guilty based on circumstantial evidence, the facts and circumstances must not only be consistent with

each other and with the guilt of the defendant, but they must be inconsistent with any reasonable theory of the defendant's innocence that can be predicated on the evidence, and must show the defendant's guilt beyond a reasonable doubt. In other words, not only must each fact relied upon to show guilt be proved beyond a reasonable doubt, but such fact must be consistent with all the other [162] facts introduced in the chain of circumstances, and must further be inconsistent with any other rational conclusion than that of the guilt of the defendant.

Now, as to the credibility of witnesses, there are certain standards or tests that are uniformly applied in a determination of credibility. First, a witness is presumed to speak the truth. This presumption may be repelled or rebutted by the manner in which the witness testifies, by the character of his testimony, or by contradictory evidence.

You should carefully scrutinize the testimony given, and in so doing, consider all of the circumstances under which the witness has testified, his demeanor, his manner while on the stand, his intelligence, the relationship which he bears to the Government or to the defendant, the manner in which the witness might be affected by the verdict, and the extent to which he is contradicted or corroborated by other evidence, if at all, and every matter that tends reasonably to shed light upon his credibility. If you find that the presumption of truthfulness attaching to the testimony of any witness has been repelled or rebutted, then you will give the testimony of such witness such credibility, if any, as you may think it entitled to.

Now, with respect to minor discrepancies and an attempt on your part to rationalize upon discrepancies; very often in the trial of a case, and without dwelling on the evidence [163] in this case, there may or may not be discrepancies between one witness's testimony and that of another. You should determine whether or not such discrepancies or inconsistencies or such points of difference affect the true or essential issues in the case. Examine such discrepancies or inconsistencies and such disputed points and ask yourselves these questions: "How does the decision of this, or that, or the other discrepancy or matter in dispute affect the guilt or innocence of the defendant?"

Regardless of what may be the truth concerning such discrepancies or inconsistencies, ask yourselves the main question: "Did or did not the defendant commit the charge or charges alleged in the indictment? Is such discrepancy or such disputed point material to establish the main and material issue, as to the guilt or innocence of the defendant?"

If they are not material, if the decision of the same is not necessary to enable you to arrive at the truth of the guilt or innocence of the defendant, then such discrepancies or disputed points are immaterial and minor matters, and you should waste no further time in their consideration.

The court cautions you to distinguished carefully between facts testified to by the witnesses and statements made by the attorneys in the course of their arguments or discussions on the evidence. If there is a variance between the arguments and facts, you

must, in arriving at your verdict, to the [164] extent that there may be such variance, consider the facts testified to by the witnesses, and you are to remember that the statements of counsel in their arguments or presentation to you are not to be considered as evidence in the case. The arguments of counsel represent their attempts to reconstruct and rationalize upon the evidence in order that their viewpoint, whether tenable or untenable, may be accepted by you.

Now, with respect to stipulations during the course of this trial, both counsel were very generous in the course of the trial in entering into stipulations with respect to facts, and you may recall that part, if not all, of the documentary evidence in this case went before the jury and the court as a result of stipulations, thus simplifying the trial and aiding the court, as well as the jury, in disposing of the case. Such stipulations represent fact, and you are to regard them as admitted facts with respect thereto.

Now, with respect to objections sustained by the court during the trial of the case, objections were sustained with respect to the introduction of evidence, and in connection with the subject-matter of any of those objections you are to disregard the evidence totally and fully, and that equally applies with respect to the court's granting of so-called motions to strike out evidence. Any evidence that has been stricken from this trial upon motion is to be disregarded by you in arriving at your ultimate verdict. [165]

As I have indicated to you, and as I pass on to further instructions, you are not to regard the instructions as isolated, in the sense that one instruction or another is to be considered by you. You are to consider the instructions as a whole.

Now, a witness may be impeached by the party against whom he is called, by contradictory evidence, by evidence that he has made at other times statements inconsistent with his present testimony; and if you believe that any witness has been impeached, then you will give the testimony of such witness such credibility, if any, as you may deem it entitled to.

If a witness is shown knowingly to have testified falsely on the trial touching any material matter, the jury has a right to disregard such testimony and to distrust such witness in other particulars, and in that case you are at liberty to reject the whole of the witness's testimony, except in so far as he may have been corroborated by other credible evidence, or by facts and circumstances placed in issue on the trial.

The defendant, Mr. De Bon, has testified in his own behalf. That being so, you will determine his credibility according to the same standards applied to every other witness. These standards I have already indicated to you. You may also consider in this connection the interest the defendant may have in the case, his hopes and his fears, and what he has to gain or lose as a result of your verdict.

In every crime, and this is a crime or an alleged crime, [166] charged in the indictment, there must

exist a union or joint operation of act and intent, and for a conviction both elements must be proved to a moral certainty and beyond a reasonable doubt. Such intent is merely the purpose or willingness to take such action. It does not require a knowledge that such act is a violation of law. However, a person is presumed to intend to do that which he voluntarily or willfully does in fact do, and must also be presumed to intend the natural, probable and usual consequences of his act.

There is another preliminary matter, and that is that you jurors are not to concern yourselves with matters of punishment of the defendant in the event of a verdict of guilty. The matter of punishment is for the court alone. Your province is to determine the guilt or innocence of the defendant, and that is your exclusive province.

Now, the indictment in this case charges in three counts, first, the so-called conspiracy, and, secondly, a substantive offense, and in the third count a substantive offense. I will dwell upon the subject-matter of the indictment at additional length. However, I take it that as a result of the reading of the indictment to you at the very start of the case, as a result of the comments made upon the indictment by respective counsel, that additional comment on my part should seem unnecessary.

Each count—and a count is a charge—when we say [167] “count” we mean a charge—is to be determined by you as a separate and several charge against the defendant, Mr. De Bon, and according to such views as you may take of the evidence, it

is permissible for you to return a verdict of guilty against the defendant on one or more of the counts, and not guilty on another, or guilty on another of the counts and not guilty on one of the counts or all of the counts, as it may appear in the light of the instructions.

Now, basically, the defendant De Bon is charged with violating Title 18 of the United States Code, Section 88, in the first count. So that you may have the basic law in mind, Section 88 of the Criminal Code provides:

“Conspiring to commit offenses against the United States. If two or more persons conspire either to commit any offense against the United States or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished in the mode prescribed by law.”

That is the so-called basic conspiracy section, and it is with respect to that section that count 1 of the indictment is predicated.

Furthermore, you must have in mind that the alleged conspiracy has to do with an alleged violation of another section, and the other section reads as follows, that is, Section 80 [168] of Title 18, and so far as material it reads as I indicated, in part:

“Whoever shall knowingly and wilfully falsify or conceal or cover up by any trick, scheme, or device, a material fact, or make or

cause to be made any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States, or any corporation in which the United States of America is a stockholder, is guilty of an offense against the United States.”

Now, in substance, under count 1 it is alleged that the defendant, Ed De Bon, together with others, unlawfully, wilfully and knowingly conspired, combined, and confederated to violate the section which I adverted to recently. In connection with that conspiracy, certain overt acts have been set forth. The overt acts were read to you at the start of the case.

The overt acts, as I will indicate to you, may or may not be criminal in their nature. An overt act may be walking across the street, depositing a letter in a mail box, making a check, handing another person some money. Those are all overt acts which follow in the wake of the alleged conspiracy. But first the conspiracy must be proven to a moral certainty [169] and beyond a reasonable doubt.

Generally, in making or presenting a false certificate or claim, such a false certificate or claim is prohibited, whether made by one on his own behalf or that of another. The sole element of an offense under Section 80 that I recently read to you is the intentional presentation of such a false statement to a Federal agency, and no pecuniary loss to the United States or to any employee on a Government

project is essential. In other words, it is the false statement that is essential, and the fact that there may not have been any pecuniary loss to the Government is not a criterion.

The first witness produced by the Government detailed at more or less length to you the internal operations with respect to surplus commodities, indicated to you certain preferences that exist in favor of veterans, and the like. I daresay you have that testimony in mind.

Now, the philosophy underlying the Surplus Property Act of 1944, as promulgated by our Congress, was to afford returning veterans an opportunity to establish themselves as proprietors of agricultural, business and professional enterprises, and in the very nature of things we all must recognize the salutary effect of such legislation in order to provide returning veterans of World War II an opportunity to rehabilitate themselves in current economic warfare or current economic business affairs, and to assure the sale of surplus property in such quantities [170] and on such terms as will discourage disposal to speculators or for speculative purposes.

Under the Surplus Property Act a board was created in order to determine regulations in the very essentials. As we understand legislation, be it State or National—and I know you all have the general concept—the over-all legislation is promulgated and then it is incumbent to implement that legislation by rules and regulations, and in this instance Congress provided that a board shall be

created to establish and maintain the veterans with respect to their own small business, professional or agricultural enterprises, by affording the veterans suitable preferences to the extent feasible and consistent with the policies of the Act.

It is an admitted fact in this case that the defendant on trial, Mr. De Bon, did not have at the time and place in question as indicated in the indictment a veteran's preference unto himself.

Now, many of the States of the Union—and we must distinguish in the trial of the cases as between the State courts and Federal courts—as I may say, many of the States of the Union have statutes to the effect that no one can be legally convicted of a criminal offense on the testimony and evidence of an accomplice without independent corroborating evidence. There is no such Federal statute. Therefore, it is not legally essential that the testimony of any accomplice be corroborated [171] in order to authorize a conviction. However, the evidence of such accomplice ought to be received and considered with great care and caution. Nevertheless, if after a careful consideration and survey of the testimony of any accomplice you are convinced beyond a reasonable doubt of the guilt of the defendant, Mr. De Bon, you should not hesitate to bring in a verdict of guilty against the defendant.

I further charge you that whoever directly commits an act constituting an offense defined in any law of the United States, or whoever aids, abets, conceals, induces, or procures its commission, is a principal, and to be prosecuted and punished as

such. In other words, whoever directly does the thing that is a violation of law is a principal, as is also one who either aids, abets, conceals, induces, or procures the doing of an act or that act.

“Aid”—and I am defining these for you because the definitions are essential in the trial of this case—“Aid” means “to help, support, assist; one who helps or promotes in doing something; helper or assistant.”

“Abet” means “to instigate or to encourage by aid or countenance; or to contribute; as an assistant or instigator in the commission of an offense.”

It is essential to the guilt of a person charged with aiding and abetting the commission of a crime that such person's acts shall have contributed to the effectuation of the [172] offense. It is sufficient if it facilitated the result and rendered the accomplishment of the offense more easy.

Usually to aid and abet in the commission of an offense, the person rendering such aid or assistance is present to render support and confidence, but he may aid and abet even though absent.

A person who renders assistance, cooperation and encouragement in the commission of an offense is one who aids and abets in the commission thereof.

You are instructed further that it is not incumbent upon the Government to prove the precise date upon which the offense or offenses here alleged to have been committed were committed, it being sufficient for the purpose of this case that it is shown that the offense or offenses were committed within the past three years.

You will observe—and I admonish you to keep these elements in mind, because we are now coming into the conspiracy field—Mr. Tramutolo, during the course of his argument, in what might be regarded as a rather inelegant manner, stated that a conspiracy indictment was sometimes used as a barrel for the inclusion of many matters therein, and rather than have your minds confused on that score, when I say “inelegant” there is no reflection upon Mr. Tramutolo at all.

I should like you to pay particular attention to these elementals having to do with conspiracy, because it is not [173] difficult to understand. There are three essentials. First, there must be the act of two or more persons conspiring and confederating together, two or more. Second, it must appear that the purpose of the conspiracy was to commit an offense against the United States, that is, to violate some law of the United States; and third, one or more of the conspirators, after the conspiracy has been formed and during its existence, must do some act to effect the object thereof.

Now, each of these elements is an essential element of the crime charged, and must be established to your satisfaction to a moral certainty and beyond a reasonable doubt before you can find the defendant guilty. If these three elements are established, then the crime of conspiracy is complete, regardless of whether the purpose was accomplished or not.

The word “conspiracy,” as I indicated, is not difficult to understand. Of course, one person cannot conspire with himself, in the very nature of

things. It takes two or more persons to form a conspiracy. Whenever two or more persons act together understandingly to commit a crime, there is a conspiracy. It is of no consequence that there may be no proof of any spoken or written word of agreement between them. Agreements to commit crime are necessarily of a secret nature and usually difficult to discover, and it is generally necessary to prove them by proof of facts from which a jury may fairly and reasonably infer the existence of the agreement, itself. [174] It is seldom that express proof can be secured. They are ordinarily proved through proof of acts and conduct of two or more persons which show that they were cooperating and working together and in unison in furtherance of a common design and purpose of the criminal object. It is difficult, if not impossible, to secure express proof of such matters, and as I have indicated to you you may from the facts elicited in this case infer that a conspiracy existed, if you so find. A conspiracy may be proved by proof of facts from which it may be fairly inferred that the parties had a common objective, and that the act or acts done by each one of the parties, though the acts may be different in character, were all done in pursuance of a common end and calculated to effect a common purpose, and that the parties steadily pursued the same object, either by the same means or by different means, but all leading to the same result.

It is unimportant, ladies and gentlemen, when the conspiracy was formed or originated. It is sufficient to prove that during its existence and to

effect the object of it one of the alleged overt acts was committed within three years prior to the day the indictment was filed, and at some place within the jurisdiction of this court.

The alleged overt acts in this case were committed in San Francisco within the jurisdiction of this court.

It is immaterial whether the evidence varies from the [175] details of the indictment as to time, place, quantity or description. Dates do not have to be proved exactly as alleged in an indictment, but it is sufficient to prove any date within the period of time of three years before the indictment was returned.

Now, the overt acts alleged commence at page 3. In brief, defendants Csaki and Hildebrand jointly prepared a document known as a Veteran's Application for Surplus Property, intending the same for filing with the War Assets Administration, and that on or about March 27, 1946, in this City and County, defendant Hildebrand made certain entries on a document known as a Veteran's Application for Surplus Property. Then in paragraphs C, D, and E, in like manner the overt acts continue as illustrated.

He, on or about July 9, 1946, in the City and County of San Francisco, State of California, the defendant Ed De Bon paid to defendant John Steven Hildebrand the sum of \$50 for procuring and exercising a Veterans's Priority in purchasing a Chevrolet truck from the War Assets Administration.

On or about July 24, 1946, at the City and County of San Francisco, State of California, the defendant Ed De Bon paid the defendant John Steven Hildebrand the sum of \$400 for procuring and exercising a Veteran's Priority in purchasing three White trucks sold to defendant Oscar Csaki on the same date by the War Assets Administration. [176]

Now, as I have indicated to you, and I admonish you again, neither the reading of those overt acts by counsel or by the court is to be taken by you as establishing the fact thereof. You must believe from the testimony here that they have been established by credible testimony or not, but as I have indicated to you, it is not necessary for you to conclude that all of the overt acts have been proved to a moral certainty and beyond a reasonable doubt. It is sufficient to establish a conspiracy, if you so find, that one overt act was committed as a consequence of and following through the alleged unlawful agreement, if such agreement existed.

As I have indicated, an overt act need not be criminal in nature if considered separately and apart from the conspiracy. It may be an innocent act, as the act of a man walking across the street or driving an automobile, or using a telephone, but if during the existence of the conspiracy the overt act is done by one of the conspirators to effect the object of the conspiracy, the crime is complete, and it is complete as to every party found by you to be a member of the conspiracy, no matter which one of the parties did the overt act.

I charge you, ladies and gentlemen of the jury, that participation in a conspiracy without knowledge of its existence or knowledge of a conspiracy without participation therein is not sufficient to warrant a conviction.

You are further instructed that the declaration or act [177] of a conspirator not in furtherance or execution of a proven common design is not evidence against any of the parties other than the one making such declaration or performing such act.

The testimony of an accomplice or a co-conspirator, or evidence of oral admissions of a defendant, must be received by you with caution. I have already indicated that to you in part. I reiterate again that proof of the conspiracy charged in the indictment against the defendant De Bon must be made independent of admissions of any defendant made after the termination of the alleged conspiracy.

The rule of reasonable doubt which I have adverted to applies, to every material element of the offense charged in the indictment.

One further instruction, that in order to find the defendant Ed De Bon guilty on the first count of the indictment, the so-called conspiracy count, you must find beyond a reasonable doubt and to a moral certainty that Mr. De Bon had knowledge of the other defendants' fraudulent plan or scheme in the preparation and presentation of the applications or mail orders alleged in that count. You must further find to a moral certainty and beyond a reasonable doubt that defendant knowingly joined in said illegal conspiracy.

You are instructed that even though two of the former defendants in this case, that is, Oscar Csaki and John Hildebrand, have entered pleas of guilty to one or more of the counts [178] of the indictment, that the pleas of guilty of those defendants are not evidence of the guilt of the defendant De Bon in the present trial.

The defendant, Mr. De Bon, has offered evidence of good character in his business dealings within this community, and with respect to his integrity. This is evidence for you to consider, together with all of the other evidence in the case in determining whether it has been proved beyond a reasonable doubt that the defendant committed the offense charged in the indictment.

You are further instructed that in order to find the defendant, Mr. De Bon, guilty of counts 2 and 3, or both, you must find beyond a reasonable doubt and to a moral certainty under all of the instructions given to you by the court that the defendant De Bon knew of the alleged illegal intent on the part of Mr. Hildebrand and Mr. Csaki to fraudulently prepare and present the applications or mail orders referred to.

Now, those two counts, ladies and gentlemen, so there may be no confusion in your minds, are completely divorced from the so-called conspiracy. They are what we regard in law as so-called substantive offenses, and I shall read them to you: That on or about July 8, 1946, the defendants, in the City and County of San Francisco, State of California, and within the jurisdiction of this court, did knowingly

and wilfully make and cause to be made false, fraudulent, and [179] misleading statements and misrepresentations, and did conceal and cover up by scheme and device a material fact in a matter within the jurisdiction of a department and agency of the United States Government, to wit, the War Assets Administration, in that the defendants—in this instance De Bon—did cause to be executed a mail order request for the purchase of surplus property, to wit, the purchase of a Chevrolet truck purported to be for the use and benefit of a veteran of World War II, one Oscar Csaki, when in truth and in fact it was the intention of defendant to purchase the Chevrolet truck for the use and benefit of defendant Ed De Bon, who was then and there not legally entitled to purchase said property.

Now, I have read to you the essence of the indictment. Count 3 is identical in all of the charging parts, save and except that it has to do with the White trucks referred to, rather than the other truck.

In every crime there must exist a union or joint operation of act and intent, and for a conviction both elements must be present, and be proved to a moral certainty and beyond a reasonable doubt. Such intent, as I have indicated to you, is merely a purpose of willingness to take such an action, and does not require any knowledge that such act is a violation of the law. However, a person is presumed to intend all that which he voluntarily and wilfully does in fact do, and must also be presumed to intend all of the natural, probable, [180] and usual consequences of all his own acts.

Now, save for a final instruction, ladies and gentlemen, I believe that I have covered every phase of this case, so far as the law is concerned, and as I indicated to you with finality, it is your obligation to arrive at a verdict if you can conscientiously do so.

You should freely consult with one another in the jury room. If any one of you should be convinced that your view of the case is erroneous, do not be stubborn and do not hesitate to abandon your own view under such circumstances, if you believe, after full and complete and fair discussion, you are erroneous. On the other hand, it is entirely proper and within your province to adhere to your own view if after a full exchange of ideas you still believe that you are right.

The indictment, as I have indicated several times, contains three counts. Each count must be considered by you as separate and several charges against the defendant, and according to such view as you take of the evidence you shall return a verdict of either guilty or not guilty as to each count.

Your verdict—and I ask that you heed this—must be unanimous in these counts.

When you retire to your jury room to deliberate you will select one of your number as foreman or forelady, and he or she will sign your verdict when it has been reached, and will preside over your deliberations in the jury room; and further, [181] your foreman or forelady will communicate, if occasion arises, with the court through the marshal,

who will be in charge of you during your deliberations. Your foreman will represent you as spokesman in any matters that have occasion to be brought to the attention of the court. The clerk will hand you the form of verdict.

Mr. Marshal, you will conduct the jury to their jury room and preside over them during their deliberations until a verdict or such action as they may take.

Are there any exceptions to the instructions?

Mr. Tramutolo: No exceptions, but I desire to have the jury retire. I think I can clarify this. There may have been a misunderstanding.

The Court: Mr. Tramutolo, if you have any exceptions to the instructions, under the rule they must be made out of the presence of the jury. If so, I will ask the jury to retire momentarily and then be recalled.

Mr. Tramutolo: Thank you, your Honor, it will be very short.

The Court: Ladies and gentlemen, under the rules Mr. Tramutolo is obliged to undertake on behalf of his client to note any exception to the charge of the court that he may have, and in the very nature of things, the law contemplates the absence of the jury, so I will ask you to retire momentarily, and then you will be returned to the court. There may or there [182] may not be further instructions, but you are not to take up your deliberations, so you are not to deliberate and discuss the case until I finally end it and hand it to you. You understand that.

(Thereupon the jury retired from the courtroom and the following proceedings were had:)

Mr. Tramutolo: Your Honor, the one on which I wanted to address myself to the Court, and it may have been covered while I was writing, is the weight the jury must give to those who have pleaded guilty. I got just one portion of it, and I don't know whether the jury was instructed that their testimony should be viewed with caution because of the fact that they had pleaded guilty.

The Court: I have given that instruction with respect to the accomplices, and I feel it is covered.

Mr. Tramutolo: The only other one, your Honor, I thought I had prepared for your Honor, was that it is not a violation of this Act to purchase property from a veteran when he acquires it himself, lawfully. In other words, there is no penalty in the Act.

The Court: Well, there is no such charge. There is no issue. You have argued that point to the jury, and I think very adequately, and you proposed no instruction on that situation and caution.

Mr. Tramutolo: I thought I proposed the one. That was [183] the one I wanted to ask about.

The Court: No, there was none proposed. I noticed you argued it very fluently and adequately.

Mr. Tramutolo: Then I have no other exception.

The Court: It has not been altogether an easy case, but I tried to eliminate any confusion.

Mr. Tramutolo: I appreciate that, sir.

The Court: Will you recall the jurors?

(Thereupon the jury was returned to the courtroom and the following proceedings were had:)

The Court: Ladies and gentlemen of the jury, you may now retire to your deliberations. The case is in your hands. I know that you will give it the consideration fairly and under the law as announced by the court, and under your oaths. That is all. You may retire.

(Thereupon, at 2:25 p.m., the jury retired to deliberate and at 4:10 p.m. the jury returned to the courtroom and further proceedings were had as follows:)

The Court: Ladies and gentlemen of the jury, the court desires to express to you a note of apology to the extent that upon the submission of the question through your foreman, Mr. Baldwin, and at the time it was presented to me by the attaches of the court I was engaged in disposing of a criminal calendar and was preoccupied to that extent, and subsequently to that I had counsel, both for the United States Government and Mr. [184] Tramutolo, for the defendant, in conference in chambers in connection with the several inquiries you have made to me in memorandum form, and after discussion with counsel and the court it has been agreed that the following answers and procedure be adopted in answer to your queries.

Question No. 1 as submitted to the court is: What constitutes a licensed veteran dealer? With respect to the use of the word "licensed" it is en-

tirely irrelevant in this case. I believe that the word "licensed" crept in during the course of the testimony of Hildebrand. A licensed operator or dealer might well be one licensed by the municipality or by the State of California, but in contemplation of the Surplus Property Act of 1944 there is no one designated as a licensed dealer. Provision is made, however, for a veteran who may well be occupied as a dealer. The law is not defined in any place so far as we are able to examine with respect to a definition of a veteran dealer, and in that respect I shall read to you briefly a regulation adopted under the Surplus property Administration. As I announced to you before, the over-all act, the War Surplus Act, contemplates implementation, and it was implemented in part 8307, Preference for Veterans. This regulation is dated October 10, 1945, and provides:

"Preference. Veterans shall be given a preference subordinate to the rights of Government agencies and State and local governments to purchase surplus property [185] for use in their own small business, agricultural, and professional enterprises."

Now, stopping for the moment, you will note that the regulation provides for the use of property in their own small business, agricultural, and professional enterprises. To that extent a veteran would be regarded as a dealer in his own business, and we must be mindful that many veterans returned from overseas who were desirous of re-engaging in a business comparable to the business they left; and some

veterans were in the automotive business, and to that extent the law in its wisdom provided that those persons could rehabilitate themselves and re-establish their business up to a maximum point, I believe, between 25,000 and 50,000. Mention was made by the witness of 25,000.

Now, "Such preference shall extend to property necessary to establish and maintain their own small business, agricultural, or professional enterprises, and within reasonable limits commensurate with the enterprise established or to be established, and in commercial lots appropriate to the level of trade."

Now, there you have your lines of demarcation. You have your over-all line. There is no fixed definitive. The regulation merely provides, "within reasonable limits commensurate with the enterprise established," and so forth, and I presume the Administrator could allow a certain amount of material commensurate with the limits it provides. [186]

Then the regulation provides:

"To one initial stock of property to be resold with or without processing or fabrication in the regular course of business."

Now, again in passing I pause to comment on the phrase, "the regular course of business," in connection with resale or reprocessing.

"In order to accomplish equitable distribution, the Smaller War Plants Corporation in collaboration with the disposal agencies and with the approval of the Administrator may establish minimum and maximum limits as to

the value and quantity of property which may be purchased by preference by any veteran.”

Now, I believe that section of the promulgation is clear. It is clear in the court’s mind, and I assume it may be clear in your mind, bearing in mind that a regulation cannot encompass every conceivable situation in the regular course of business, and discretion is reposed in the Administrator in connection with the preference.

During the course of my general instructions and before you retired for your deliberations, I had occasion to discuss with the jury the philosophy underlying the Surplus Property Act of 1944, and we must give recognition to the philosophy underlying that Act in order to arrive at your ultimate questions. [187]

The Surplus Property Act of 1944 is embraced in Title 50 of the United States Code, Section 1611, and reads in part as follows:

“Congress hereby declares that the objectives of This Act are to facilitate and regulate the orderly disposal of surplus property so as”—then the objectives—

“1. To afford returning veterans an opportunity to establish themselves as proprietors of agricultural, business and professional enterprises;

“2. To assure the sale of surplus property in such quantities and on such terms as will discourage disposal to speculators or for speculative purposes.”

We now must advert to the regulation. The regulation clearly provides the express terms—in express terms, that provision be made for veterans in the regular course of business, and jurors, as well as the courts must be mindful that if preference were to be dealt in in an unbridled fashion the very spirit and purpose of the Act would be thwarted and defeated, for the simple and obvious reason that the veteran's preferences would be dealt in wholesale from hand to hand, and from hand to hand.

I am seeking to impress upon you the law as I gather it, and do not intend to convey to you any impression I have about this case. Under Section 1625 of the Surplus Property Act it is provided: [188]

“The board shall prescribe regulations to effectuate the objectives of this Act to aid veterans to establish and maintain their own small business, professional, or agricultural enterprises, by affording veterans suitable preferences to the extent feasible and consistent with the policies of this Act in the acquisition of the types of surplus property useful in such enterprises.”

There you have the underlying provisions of the Surplus Property Act, and you have the regulation under it.

Now, to proceed to the question you presented. No. 1, What constitutes a licensed veteran dealer? That question is moot, because there is no such person as a licensed veteran dealer within legal contemplation.

2, Was Mr. Hildebrand an authorized veteran dealer at the time of the sales to Mr. De Bon? The answer to that is Yes, according to Hildebrand, he was a dealer. You may recall his testimony that he had been in business with a gentleman in Los Angeles, or Bakersfield, that Hildebrand had exhausted all of his priorities, and having exhausted his priorities he then sought refuge in the priorities of Mr. Csaki. Hildebrand did not use, admittedly, any of his priorities. It was Csaki's priority or priorities used in the consummation of the transactions before the court and jury as embraced in the indictment.

The third question is, Can a dealer buy on a veteran's [189] priority and sell to a non-veteran on a commission basis? That involves a mixed question of law and fact, and I regard the answer to that as completely removed from this case, because the transaction as elicited through the medium of the witnesses is either one thing or the other. Two witnesses took the stand, Csaki and Hildebrand, and admitted before the court and jury that they had entered into a fictitious transaction, a mere figment, a colorable fiction. Hildebrand had used the priorities of Csaki in the accomplishment of a scheme and trick and device perpetrated upon the War Assets Administration, and in turn the United States Government. They entered pleas, as has been pointed out to the jury and the court, of guilty. They stand before the court and jury as guilty participants in that enterprise. There is no question about that. The transaction affecting the Chevrolet and the trans-

action affecting the three White trucks were fictitious transactions, and were accomplished and consummated as a result of the scheme or trick or device perpetrated, and you may recall that I instructed you fully under the terms of Title 18, Section 80, as to what constituted the scheme or stratagem or trick or device.

The gravamen of this cause is not bottomed or predicated upon any sale. If there be a fraud perpetrated, it is in connection with the mail order sent to the War Assets, and other features of the transaction. No opprobrium attached to [190] the alleged sale. The ultimate question then posed before the court and jury is this: Mindful that Hildebrand and Csaki entered into an unlawful transaction and a conspiracy themselves to violate the law, wherein they stand before this court and jury admittedly guilty, the first question is: 1, Did the defendant De Bon have notice and knowledge of what is admittedly as between Csaki and Hildebrand a fictitious transaction? Did he have that notice and knowledge? That is a fact for you to find in light of all the evidence and in light of the instructions given to you by the court.

2. Did he have the intent? And you may recall I indicated to you that the consummation of a crime must perforce be act plus intent. Did he have intent in the contemplation of the law as defined in my instructions to become part and parcel as an active participant in the scheme or artifice whereby the trucks were acquired by Csaki and Hildebrand?

Do I make myself clear, ladies and gentlemen? The sole question for you to determine when you retire to the jury room, in light of all this law—I realize that you have been given quite a load of law to carry with you, and I am mindful that the War Surplus Commodity Act has not been interpreted on many occasions before courts and particularly before juries, and I dare say this is the first time in recent date this problem has been posed before a jury—so therefore feel free immediately to ask me any questions concerning it, and if I am able [191] I will answer.

Then the question of notice and knowledge enters into this transaction. Did De Bon have that notice and knowledge in contemplation of law necessary to bring a verdict? Appropriate now are the doctrine of reasonable doubt and the doctrine of presumption of innocence which I have given in my previous instructions. In considering whether he had notice and knowledge, you may in your mind process the transactions mentally and define them. There was not one transaction. There were several. The first was that of the Chevrolet. After that was consummated the evidence shows that Mr. De Bon delivered to Hildebrand a sum of money, I think \$50 or thereabouts, in consideration for the acquisition by Hildebrand of the truck in question or the paraphernalia in question. Thereafter there was a second transaction involving the White trucks. Subsequent to that there was a payment by Mr. De Bon of cash.

Consider now in the light of Mr. De Bon's testimony denying that he had knowledge or notice of

any fictitious transaction, and in the light of all the facts and circumstances it is for you to determine. That is your province. I rest it with you. Are there any further questions?

A Juror: If Mr. Hildebrand was a dealer, couldn't it be construed that a dealer is entitled to a commission for sale? [192]

The Court: A dealer can deal in his own properties as such, but bear in mind in this case that Mr. Hildebrand was not dealing in his own priorities. Mr. Hildebrand was dealing in Csaki's priorities.

The Juror: What I mean is an innocent purchaser purchasing and paying commission, wouldn't that or couldn't that be constituted a commission instead of——

The Court: That is for you. I am not to pass on that, sir. That is a matter for you to determine in the light of all the facts in this case.

The Juror: That is the reason we wanted to know what a dealer was.

The Court: I have defined it as best I can. I have given you the definition. I have read the Act.

The jury may retire for further deliberation.

(Thereupon at 4:32 the jury retired for further deliberation. At 9:13 p.m. the jury returned to the courtroom with a verdict of guilty as to the first count, not guilty as to the second count, and guilty as to the third count, following which the jury was polled and discharged from further consideration of the case.) [193]

CERTIFICATE OF REPORTER

We, Allen Mack and F. J. Sherry, official Reporters, certify that the foregoing 151 pages is a true and correct transcript of the matter therein contained as reported by us and thereafter reduced to typewriting to the best of *my* ability.

[Title of District Court and Cause]

REPORTER'S TRANSCRIPT

September 26, 1947

The Clerk: United States of America v. Hildebrand, Csaki and De Bon for judgment.

The Court: The defendants are before the court represented by respective counsel. Do you gentlemen have anything to say at this time as to why judgment and sentence should not be pronounced?

Mr. Tramutolo: No legal ground.

Mr. Pothier: I would like to speak on behalf of the defendant Csaki, his past, briefly.

The Court: You may.

Mr. Pothier: I have not, of course, had the opportunity to see the probation report, but I am confident that with the exception of the incident with which we are here involved that it is entirely favorable. His background and character, I am sure, are above reproach. As your Honor knows, he was a veteran through the full period of the war and prior to the war saw active service and had been in no difficulty of any kind at all, and I think I can safely

proceed to the consideration which Judge Goodman has said was the province of the Court as distinguished from that of the probation officer, and that is the offense that has been presented in the evidence to your Honor, because I hope I am correct in saying that the report discloses that this defendant certainly is not of criminal temperament or has a background which will indicate that any type of offense is likely to be repeated. As to the offense before the Court, all I would say to your Honor is that the file will disclose that the government, in recommending the acceptance of a plea of *nolo contendere*, as applied to this defendant, advised the Department that in this case he was a dupe in the transaction. I hope your Honor will not misunderstand me; I am not distinguishing between *nolo contendere* and guilty. I realize we are here with the same consequences of a guilty plea. But the reason behind the Department's attitude, I think is important, and I think the evidence does show he was a dupe. Certainly there was no plan or conspiracy between him and anyone else to get a series of priorities and make money off of them. I am sure your Honor is satisfied with that. He was a simpleton and a weakling. That is the way I would put it.

I know the two features that stand out in your Honor's mind, as you indicated at the trial, with respect to this defendant. There was a certain amount of money that he received, and there may have been some ambiguity in the testimony as to his consciousness of wrong-doing. I think there is some misunderstanding on your Honor's part. There

was in that respect. As to the money which he received, the one item of \$20 and one of \$125, which were paid to him for the use of his priorities, and which, according to at least one of the defendants' contentions, was properly paid, that was something that was done for his time and effort. I think it is perfectly clear from his entire conduct he was aware that what he was [196] doing was wrong. He objected from the start. He was happy to present the full matter to the investigator when he was apprehended. He did testify he did not know he was committing a legal wrong-doing. Even counsel, perhaps the Court, has some question as to whether this type of transaction is a legal wrong-doing. I think he is entitled to answer on that matter, but there is no question in his mind it was a moral wrong-doing and he submits himself to the mercy of the Court. I think he is entitled to receive that mercy.

Mr. Tramutolo: Your Honor, in behalf of Ed De Bon, I am still convinced—and I say this with all sincerity—that I do not believe that the verdict of the jury was a correct verdict. I say that with all due respect because it was a new jury, and the reason I say that, your Honor, is that this man is very well known in Northern California and throughout the State. I have personally known him for many, many years. I have never known Ed De Bon to do anything that would harm anyone. I know of his acts of kindness and acts of charity because I have known him over this period of years. I can't get through my mind that here is a man who had been dealing with War Assets on credit, having

bought, your Honor, I think more than a half million dollars of property from the government—there is no need for him to resort to subterfuge for any acts such as is charged in this indictment. However, that question was submitted to the jury and the jury has returned its verdict and found [197] contrary to his belief or his testimony and my opinion.

Your Honor, also I cannot get through my mind or understanding how a man would require notarized bills of sale from Csaki to himself. He never knew Csaki, never met Msaki until the day of the transaction, July 8, and that is subsequent to the three White trucks. He had in his employ and still has a number of veterans. If there has been any desire to resort to any misrepresentations or subterfuge or trying to circumvent any law, certainly he could have done it with his own employees, having them make application and procuring those trucks or anything he needed in the motor line and then purchased them then. There is the further fact, as your Honor well remembers, that application for all this material was made several months before Hildebrand and De Bon met.

Since this conviction, of course, it has affected him physically and of course morally in the community. His business has suffered. He has lost his agency, his motor agency for the automobile line he was handling, partially due to this. He has been in the motor business for many, many years.

Then, in addition to that, your Honor knows as well as I do when it is found out as to the amount of these trucks or what was due to the government

for acquiring these trucks he obtained these various cashier checks made out to him and endorsed over to War Assets. Your Honor would be viewing the entire testimony if I were to continue, because you are as [198] familiar with it as I am. I think this man is entitled to your earnest consideration for leniency.

The Court: He had transactions with one Jack Chastein, although he was not tried on that theory. It appears there were transactions of a similar nature.

Mr. Tramutolo: Your Honor, the Jack Chastein matter I do not recall. I think Chastein bought a truck. The truck was too large for the purposes for which he used it, the contract that he had, I think, in Northern California was terminated, and Jack Chastein had no one else to dispose of the truck to. He had purchased it and used it for a period of months, and because it was not adaptable for his contract purposes and because the contract, I believe, terminated—it was a gravel truck—he sold the truck to De Bon. He consigned it for sale, and De Bon sold it for him because he had the medium of selling.

I do not know what to add, your Honor. As I say, I cannot get through my mind that there is a violation of this Act because the evidence in my opinion never bore it out, and there could have been no motive for him to do the thing with which he is charged, because he could have waited and those trucks could have been procured by him as a dealer at considerably less expense, because the telephone

truck had to be dismantled, and I think I have submitted to the probation officer the over-all cost to him, and the one truck purchased from Hildebrand with which he is charged and still has in his [199] possession, if it is not sold, his loss will be an overall loss in excess of \$2300. If he does sell it, it will be that much less.

Mr. Haughey: Anything that I might say, your Honor, would be purely repetitious. You have before you a report. Your Honor can see from reading the files of the probation department that this young man, 27 or 28 years of age, father of two children, a veteran of approximately four and a half years' service, commended by his superior officers, has a background, if your Honor please, that I think entitles him to the utmost consideration from your Honor. In addition to that, it was his sole business venture, that is, his sole enterprise is now coming to an end. He has lost his lease. He has lost his investment in a service station across the Bay. He has to vacate the premises on October 1st. The young man is without a job, without any income, and he has two children to support. The last was born June 19 of this year. I think the defendant's whole attitude in this thing has been open and aboveboard. He has come out and he has told the department, the investigative department of the government, everything that took place. He has cooperated fully. I must repeat once more, if your Honor please, this defendant is entitled to your utmost consideration.

The Court: All right, gentlemen. The matter may be submitted. I have received from Mr. Wahl the probation report [200] and I need not add that it is comprehensive, as all his other reports are. He has given me the full details and background, which the Court sometimes is not in a position to obtain.

In respect to the defendant Csaki, he, as counsel points out, is less culpable than the others. Hildebrand likewise has an enviable record. This boy has a good general record. He has been with the Emporium upwards of ten years and he holds a position of trust and confidence. He claims he went into the transaction unwittingly, that he did not realize the legal culpability. That may well be. At the same time he entered a plea of *nolo contendere*, with the consent of the Attorney General, and aided the government in all respects in the prosecution of this cause. I feel that he is entitled to consideration. He entered a plea of guilty to the first count, *nolo contendere*.

Mr. Pothier: Yes, your Honor.

The Court: The other two counts are dismissed. Accordingly, as to the defendant Csaki, it is the judgment and sentence of the Court that he be fined in the amount of \$250.

With respect to the defendant Hildebrand, John Stephen Hildebrand, I have read his general record. He has letters on file from his superiors demonstrating that he was commended; a special commendation with respect to his service, was given him. He did know the operations, however, within the particular department. He had been conversant with

them. It was he [201] who formed the contact with De Bon. He claims, however, and claimed during the course of the trial, that he had a wholesale veteran's priority. He thought he could do business under those circumstances. However, I think he realized, as did the jury, that the transaction was a tolerable one and a pure fiction.

Now, adverting momentarily to Mr. Tramutolo's remark concerning the trial itself, I think this jury was what might be regarded comparatively as a new jury. The case was thoroughly tried. I believe I thoroughly instructed them, I think they understood thoroughly the evidence as applied to the law, or the law as applied to the evidence. I might add, however, that as far as I can determine, this is the first prosecution of its kind.

Mr. Bonsall: It is, your Honor.

The Court: I have asked Mr. Bonsall if he had any criteria, any basis that might afford the Court a yardstick in this case.

Mr. Bonsall: There is no change to date, your Honor.

The Court: You have no such authority and I could not find any. Therefore, we have to sort of hew our own paths in the trial of this case. Mr. Tramutolo has pointed out to this Court that these transactions are widespread throughout the country. Of course, I cannot bring myself in consonance with that. That might well be. As far as the prosecution is concerned, [202] I believe the jury reached the only verdict they could possibly reach.

There are factors in extenuation so far as the defendant is concerned. I could not conceive of sending this man to the county jail, and I think Mr. Wahl in our discussion, as well as in his report, so concludes; am I correct, Mr. Wahl?

The Probation Officer: That is right, your Honor.

The Court: I think he probably has suffered to an extreme thus far. He hasn't any prior record of any kind, character or description.

Mr. Bonsall: No, your Honor.

The Court: John Hildebrand, are you ready for sentence?

Mr. Hildebrand: Yes, sir.

The Court: It is the judgment and sentence of this Court that you be confined in the county jail for a period of three months, which sentence I will suspend and grant probation and in addition, you will pay a fine to the United States Government in the amount of \$500.

Mr. Haughey: May we have a 72-hour stay of execution, your Honor, for the payment of the fine?

The Court: Yes.

Mr. Haughey: Thank you.

The Court: Now, as to the defendant De Bon, the report of the probation officer reaches a conclusion that De Bon is not entitled to probation. There are many factors in reaching that [203] conclusion which I need not dilate upon. I feel that the ends of justice would be served as to De Bon, however, by a fine commensurate with the gravity of the offense. He claims he lost money in the transaction.

I cannot believe that. Although arithmetic computations were set before me, I am satisfied that Mr. De Bon was in the transaction on a profit basis and with a profit motive. I feel, however, that this case did present in its trial features complexities. Mr. Bonsall, am I correct?

Mr. Bonsall: That is correct, your Honor.

The Court: And I feel that it being a case of first impression that this Court should be accordingly to a degree temperate.

De Bon in one phase of the case presented evidence that was somewhat convincing, and yet ruled against him by the jury as well as by the Court on your own motions, and that is, De Bon went to the bank and received these certified checks, presenting them openly, without any attempt at reservation or circumvention. Now, that conduct in and of itself seemed to justify the conclusion that he was acting as an innocent man. I ruled against your contentions, Mr. Tramutolo, on your motions and I rule against them now, and yet as a fact it stands out to some degree like a beacon of light to me. Accordingly, I do not feel that this man should be sent to the county jail. He perhaps has suffered in his business relations far beyond any punishment [204] I could mete out. You tell me he has lost his agency?

Mr. Tramutolo: Yes, he has, your Honor, partially due to the trial and the department, in addition, has said to screen everything he has done, and he has little or no chance.

The Court: I have read letters in the file from other departments that the man has been honest in his dealings.

Mr. Tramutolo: He purchased over a half million dollars of equipment from the government, and he owes the government today \$40,000, which must be paid, and he owes the Bank of America some \$30,000.

The Court: He has a minor offense reflected by the FBI report that I have in mind. Are you ready for sentence?

Mr. De Bon: We are.

The Court: Ed De Bon, it is the judgment and sentence of this Court as to count 1, under which the jury gave a verdict of guilty, that you be confined in the county jail for a period of six months, which sentence the Court will suspend and grant probation for a period of two years, and on count 1 you shall pay a fine to the United States Government in the amount of \$2500.

The jury returned a verdict of guilty as to count 2 and guilty as to count 3. The jury found you guilty thereon, and accordingly it is the judgment and sentence of this Court that you pay a fine to the United States Government in the amount of \$2500, the judgment and sentence to run consecutively.

Mr. Tramutolo: Will your Honor give me a week's time in that matter?

The Court: A stay of one week.

Mr. Tramutolo: A stay of execution as to De Bon until October 3.

If your Honor please, may I ask instead of the 3rd that it be taken on any other date after the 3rd? I will not be here.

The Court: Any date agreeable with the calendar.

The Clerk: It is purely a routine matter of paying it over to the Clerk's office, your Honor.

Mr. Tramutolo: Put it on for Monday, the 6th.

CERTIFICATE OF REPORTER

We, Official Reporters, and Official Reporters pro tem, certify that the foregoing transcript of 13 pages is a true and correct transcript of the matter therein contained as reported by us and thereafter reduced to typewriting, to the best of our ability.

/s/ J. J. SWEENEY.

[Endorsed]: No. 11841. United States Circuit Court of Appeals for the Ninth Circuit. Ed De Bon, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed January 26, 1948.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 11841

ED DE BON,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS UPON WHICH
APPELLANT INTENDS TO RELY ON
APPEAL

The appellant Ed De Bon intends to rely upon the following points on appeal herein, to wit:

The trial court erred in denying appellant's motions for his acquittal made at the conclusion of the prosecution's evidence and at the conclusion of the testimony and his motions in arrest of judgment and for a new trial and the denials thereof and the verdict of guilty, the judgment of conviction and the sentences and fines imposed upon him are contrary to law and to the evidence for the following reasons, to wit:

(1) The indictment does not state facts sufficient to constitute a public offense;

(2) No evidence linked him with the purported commission of any of the crimes charged in the indictment or showed or tended to show he had knowledge of the conspiracy charged in count one or of the crime charged in count three of the indictment

or that he had any intent to commit any such crime or crimes or that he was guilty of the commission of any crime charged therein;

(3) The charges contained in the indictment, the verdict of guilty on counts one and three and the judgment of conviction, sentences and fines imposed upon him thereon are void for placing him in double jeopardy, in violation of the provisions of the 5th Amendment, and the sentences and fines imposed upon him are void for being duplicitous and excessive, in violation of the 8th Amendment;

(4) Counsel for the prosecution was guilty of misconduct in arguing to the jury that the appellant was guilty of conspiracies other than the one charged in the indictment and the same was prejudicial to his substantial rights, materially affected the same and deprived him of a fair trial in violation of the provisions of the 6th Amendment and the due process clause of the 5th Amendment;

(5) The trial court erred in admitting immaterial evidence and in excluding material evidence, over appellant's objections, which deprived him of a fair trial and resulted in a miscarriage of justice;

(6) The trial court erred in refusing to give to the jury certain instructions proposed by appellant among which were instructions to the effect (1) that it was not a violation of the Surplus Property Act for one to purchase property from a veteran who lawfully has acquired such property and (2) that the testimony of co-defendants who had pleaded guilty to the charges in the indictment should be viewed with caution and distrust;

(7) The trial court erred in instructing the jury, and among other instructions erroneously given, in answer to inquiries put to the court by the jury, erroneously instructed them, in substance and to the effect that, (1) there was no such person as a "licensed veteran dealer" within the purview of the Surplus Property Act, (2) that the prosecution's witness, John Steven Hildebrand, did not use any of his priorities and (3) that the question whether or not a dealer could buy on a veteran's priority and sell to a non-veteran on a commission basis was not involved as an issue in the case.

The appellant designates the whole of the record to be necessary for the consideration of the points upon which he intends to rely on his appeal.

Dated February 27th, 1948.

/s/ CHAUNCEY TRAMUTOLO,
Attorney for Appellant.

Receipt of a copy of the foregoing Statement of Points is hereby admitted this 27th day of February, 1948.

FRANK J. HENNESSY,
U. S. Attorney.
By /s/ EDGAR R. BONSALL,
Assistant U. S. Attorney.

[Endorsed]: Filed Feb. 27, 1948.

[Title of Circuit Court of Appeals and Cause.]

APPLICATION THAT COURT EXAMINE
AND CONSIDER ON APPEAL THE ORIG-
INAL EXHIBITS INTRODUCED AT THE
TRIAL WITHOUT REPRODUCING IN
RECORD

The parties hereto hereby jointly request the Court to examine and consider on the issues involved in the appeal herein the original exhibits offered and introduced into evidence at the trial below without reproducing the same in the record herein.

Dated February 27th, 1948.

FRANK J. HENNESSY,
U. S. Attorney.

By /s/ EDGAR R. BONSALE,
Assistant U. S. Attorney,
Attorneys for Appellee.

/s/ CHAUNCEY TRAMUTOLO,
Attorney for Appellant.

So Ordered.

February 28, 1948.

/s/ WILLIAM DENMAN,
United States Circuit Judge
Presiding.

[Endorsed]: Filed Mar. 1, 1948.